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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Docket Nos. AMS–FV–07–0134; FV08–985–1 FIR]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 2007–2008 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule revising the quantity of Class 3 (Native) spearmint oil that handlers may purchase from, or handle for, producers during the 2007–2008 marketing year. This rule continues in effect the action that increased the Native spearmint oil salable quantity from 1,162,336 pounds to 1,172,956 pounds, and the allotment percentage from 48 percent to 53 percent. The marketing order regulates the handling of spearmint oil produced in the Far West and is administered locally by the Spearmint Oil Administrative Committee (Committee). The Committee recommended this rule for the purpose of avoiding extreme fluctuations in supplies and prices and to help maintain stability in the Far West spearmint oil market.

DATES: *Effective Date:* May 12, 2008.

FOR FURTHER INFORMATION CONTACT: Susan M. Coleman, Marketing Specialist, or Gary D. Olson, Regional Manager, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or E-mail: *Sue.Coleman@usda.gov* or *GaryD.Olson@usda.gov*.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 985 (7 CFR part 985), as amended, regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of Nevada and Utah), hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This rule continues in effect the action that increased the quantity of Native spearmint oil produced in the Far West that may be purchased from or handled for producers by handlers during the 2007–2008 marketing year, which ends on May 31, 2008. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The original salable quantity and allotment percentages for Scotch and Native spearmint oil for the 2007–2008 marketing year were recommended by the Committee at its October 4, 2006, meeting. The Committee recommended salable quantities of 886,667 pounds and 1,062,336 pounds, and allotment percentages of 45 percent and 48 percent, respectively, for Scotch and Native spearmint oil. A proposed rule was published in the **Federal Register** on January 22, 2007 (71 FR 2639). Comments on the proposed rule were solicited from interested persons until February 21, 2007. No comments were received. Subsequently, a final rule establishing the salable quantities and allotment percentages for Scotch and Native spearmint oil for the 2007–2008 marketing year was published in the **Federal Register** on March 29, 2007 (72 FR 14657).

This rule continues in effect the action that revised the quantity of Native spearmint oil that handlers may purchase from, or handle for, producers during the 2007–2008 marketing year, which ends on May 31, 2008. Pursuant to authority contained in §§ 985.50, 985.51, and 985.52 of the order, the Committee, with seven of its eight members present, met on October 17, 2007, and unanimously recommended that the 2007–2008 Native spearmint oil allotment percentage be increased by 5 percent.

Thus, taking into consideration the following discussion on adjustments to the Native spearmint oil salable quantities, this rule continues in effect the action that increased the 2007–2008 marketing year salable quantities and allotment percentages for Native spearmint oil to 1,172,956 pounds and 53 percent.

The salable quantity is the total quantity of each class of oil that handlers may purchase from, or handle for, producers during the marketing year. The total salable quantity is divided by the total industry allotment base to determine an allotment percentage. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the

producer's individual allotment base for the applicable class of spearmint oil.

The total industry allotment base for Native spearmint oil for the 2007–2008 marketing year was estimated by the Committee at the October 4, 2006, meeting at 2,213,200 pounds. This was later revised at the beginning of the 2007–2008 marketing year to 2,213,124 pounds to reflect a 2006–2007 marketing year loss of 76 pounds of base due to non-production of some producers' total annual allotments. When the revised total allotment base of 2,213,124 pounds is applied to the originally established allotment percentage of 48 percent, the initially established 2007–2008 marketing year salable quantity of 1,062,336 pounds is effectively modified to 1,062,300.

By increasing the salable quantity and allotment percentage, this final rule makes an additional amount of Native spearmint oil available by releasing oil from the reserve pool. As of February 20, 2008, the reserve pool is estimated at 258,435 pounds. When applied to each individual producer, the allotment percentage increase allows each producer to take up to an amount equal to their allotment base from their reserve for this respective class of oil. In addition, pursuant to §§ 985.56 and 985.156, producers with excess oil are not able to transfer such excess oil to other producers to fill deficiencies in annual allotments after October 31 of each marketing year.

The following table summarizes the Committee recommendations:

Native Spearmint Oil Recommendation

(A) Estimated 2007–2008 Allotment Base—2,213,200 pounds. This is the estimate on which the original 2007–2008 Native spearmint oil salable quantity and allotment percentage was based.

(B) Revised 2007–2008 Allotment Base—2,213,124 pounds. This is 76 pounds less than the estimated allotment base of 2,213,200 pounds. This is less because some producers failed to produce all of their 2006–2007 allotment.

(C) Original 2007–2008 Allotment Percentage—48 percent. This was unanimously recommended by the Committee on October 4, 2006.

(D) Original 2007–2008 Salable Quantity—1,062,336 pounds. This figure is 48 percent of the estimated 2007–2008 allotment base of 2,213,200 pounds.

(E) Adjustment to the Original 2007–2008 Salable Quantity—1,062,300 pounds. This figure reflects the salable quantity initially available after the beginning of the 2006–2007 marketing year due to the 76-pound reduction in the industry allotment base to 2,213,124 pounds.

(F) First Revision to the 2007–2008 Salable Quantity and Allotment Percentage:

(1) Increase in Allotment Percentage—5 percent. The Committee recommended a 5 percent increase at its October 17, 2007, meeting.

(2) 2007–2008 Allotment Percentage—53 percent. This figure is derived by adding the increase of 5 percent to the original 2007–2008 allotment percentage of 48 percent.

(3) Calculated Revised 2007–2008 Salable Quantity—1,172,956 pounds. This figure is 53 percent of the revised 2007–2008 allotment base of 2,213,124 pounds.

(4) Computed Increase in the 2007–2008 Salable Quantity—110,656 pounds. This figure is 5 percent of the revised 2007–2008 allotment base of 2,213,124 pounds.

The 2007–2008 marketing year began on June 1, 2007, with an estimated carry-in of 83,417 pounds of salable oil. When the estimated carry-in is added to the revised 2007–2008 salable quantity of 1,062,300 pounds, a total estimated available supply for the 2007–2008 marketing year of 1,145,717 pounds results. In actuality, this final rule made an additional 98,097 pounds of Native spearmint oil available, since not all producers have reserve pool oil. This resulted in a revised available supply of 1,243,814 pounds. As of February 20, 2008, 1,030,839 pounds of oil has already been sold or committed for the 2007–2008 marketing year, which leaves 212,975 pounds available for sale.

In making this recommendation, the Committee considered all available information on price, supply, and demand. The Committee also considered reports and other information from handlers and producers in attendance at the meeting and reports given by the Committee Manager from handlers and producers who were not in attendance. The handlers have estimated that the demand for 2007–2008 year will be 1,200,000 pounds, which would leave 43,814 pounds as a carry out at the end of the year. However, when the Committee made its original recommendation for the establishment of the Native spearmint oil salable quantity and allotment percentage for the 2007–2008 marketing year, it had anticipated that the year would end with an ample available supply. Therefore, the industry may not be able to meet market demand without this increase.

Based on its analysis of available information, USDA has determined that the salable quantity and allotment percentage for Native spearmint oil for the 2007–2008 marketing year should be increased to 1,172,956 pounds and 53 percent, respectively.

This rule finalizes an interim final rule that relaxed the regulation of Native spearmint oil and will allow producers to meet market demand while improving producer returns. In conjunction with the issuance of this rule, the Committee's revised marketing policy statement for the 2007–2008 marketing year has been reviewed by USDA. The Committee's marketing policy statement, a requirement whenever the Committee recommends implementing volume regulations or recommends revisions to existing volume regulations, meets the intent of § 985.50 of the order. During its discussion of revising the 2007–2008 salable quantities and allotment percentages, the Committee considered: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) prospective production of each class of oil; (4) total of allotment bases of each class of oil for the current marketing year and the estimated total of allotment bases of each class for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil, including prices for each class of oil; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity. Conformity with USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' has also been reviewed and confirmed.

The increase in the Native spearmint oil salable quantity and allotment percentage allows for anticipated market needs for this class of oil. In determining anticipated market needs, consideration by the Committee was given to historical sales, and changes and trends in production and demand.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the

Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are seven spearmint oil handlers subject to regulation under the order, and approximately 58 producers of Scotch spearmint oil and approximately 92 producers of Native spearmint oil in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $6,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

Based on the SBA's definition of small entities, the Committee estimates that one of the seven handlers regulated by the order could be considered a small entity. Most of the handlers are large corporations involved in the international trading of essential oils and the products of essential oils. In addition, the Committee estimates that 19 of the 58 Scotch spearmint oil producers and 22 of the 92 Native spearmint oil producers could be classified as small entities under the SBA definition. Thus, a majority of handlers and producers of Far West spearmint oil may not be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of spearmint oil. A typical spearmint oil-producing operation has enough acreage for rotation such that the total acreage required to produce the crop is about one-third spearmint and two-thirds rotational crops. Thus, the typical spearmint oil producer has to have considerably more acreage than is planted to spearmint during any given season. Crop rotation is an essential cultural practice in the production of spearmint oil for weed, insect, and disease control. To remain economically viable with the added costs associated with spearmint oil production, most spearmint oil-producing farms fall into the SBA category of large businesses.

Small spearmint oil producers generally are not as extensively diversified as larger ones and as such are more at risk to market fluctuations. Such small producers generally need to market their entire annual crop and do not have the luxury of having other crops to cushion seasons with poor spearmint oil returns. Conversely, large diversified producers have the potential to endure one or more seasons of poor spearmint oil markets because income from alternate crops could support the operation for a period of time. Being reasonably assured of a stable price and market provides small producing entities with the ability to maintain proper cash flow and to meet annual expenses. Thus, the market and price stability provided by the order potentially benefit the small producer more than such provisions benefit large producers. Even though a majority of handlers and producers of spearmint oil may not be classified as small entities, the volume control feature of this order has small entity orientation.

This rule continues in effect the action that increased the quantity of Native spearmint oil that handlers may purchase from, or handle for, producers during the 2007–2008 marketing year, which ends on May 31, 2008. Specifically, this action increases the 2007–2008 marketing year salable quantity and allotment percentage for Native spearmint oil to 1,172,956 and 53 percent.

An econometric model was used to assess the impact that volume control has on the prices producers receive for their commodity. Without volume control, spearmint oil markets would likely be over-supplied, resulting in low producer prices and a large volume of oil stored and carried over to the next crop year. The model estimates how much lower producer prices would likely be in the absence of volume controls.

The recommended allotment percentages, upon which 2007–2008 producer allotments are based, are 45 percent for Scotch and 53 percent for Native (a 5 percentage point increase from the original allotment percentage of 48 percent). Without volume controls, producers would not be limited to these allotment levels, and could produce and sell additional spearmint oil. The econometric model estimated a $1.40 decline in the season average producer price per pound of Far West spearmint oil (combining the two classes of spearmint oil) resulting from the higher quantities that would be produced and marketed if volume controls were not used.

A previous price decline estimate of $1.45 per pound was based on the original 2007–2008 allotment percentages (45 percent for Scotch and 48 percent for Native) published in the **Federal Register** on March 29, 2007 (72 FR 14657). The revised estimate reflects the impact of the additional quantities that will be made available by this rule compared to the original allotment percentages. In actuality, this rule made 98,097 pounds of Native spearmint oil available, which is lower than the computed increase of 110,656 pounds, since not all producers have reserve pool oil. Loosening the volume control restriction resulted in the smaller price decline estimate of $1.40 per pound.

The use of volume controls allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. The use of volume controls is believed to have little or no effect on consumer prices of products containing spearmint oil and will not result in fewer retail sales of such products.

Based on projections available at the meeting, the Committee considered alternatives to the increase finalized herein. The Committee not only considered leaving the salable quantity and allotment percentage unchanged, but also looked at various increases. The Committee reached its recommendation to increase the salable quantity and allotment percentage for Native spearmint oil after careful consideration of all available information, and believes that the levels recommended will achieve the objectives sought. Without the increase, the Committee believes the industry would not be able to meet market needs.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

The AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

The Committee's meeting was widely publicized throughout the spearmint oil industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the October 17, 2007, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on December 17, 2007. Copies of the rule were mailed by the Committee's staff to all committee

members, producers, handlers, and other interested persons. In addition, the rule was made available through the Internet by USDA and the Office of the Federal Register. That rule provided for a 60-day comment period which ended February 15, 2008. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing this interim final rule, without change, as published in the **Federal Register** (72 FR 71199) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

■ For the reasons set forth in the preamble, 7 CFR part 985 is amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

Accordingly, the interim final rule amending 7 CFR part 985, which was published at 72 FR 71199 on December 17, 2007, is adopted as a final rule without change.

Dated: April 8, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–7866 Filed 4–10–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

Damage Tolerance and Fatigue Evaluation of Structure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action corrects a paragraph reference that appeared in the final rule, Airworthiness Standards; Airframe Rules Based on European Joint Aviation Requirements, which the FAA published in the **Federal Register** on February 9, 1996. In that final rule, the FAA inadvertently changed a paragraph reference. The intent of this action is to correct the error in the regulation to ensure the requirement is clear and accurate.

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

FOR FURTHER INFORMATION CONTACT: Pat Mullen, Regulations and Policy, ACE–111, Federal Aviation Administration, 901 Locust Street, Kansas City, MO 64106; telephone (816) 329–4111; e-mail *pat.mullen@faa.gov*.

SUPPLEMENTARY INFORMATION: On February 9, 1996, the FAA published in the **Federal Register** (61 FR 5147) a final rule that amended § 23.573(b) by removing the reference ''§ 23.571(c)'' and adding the reference ''§ 23.571(a)(3)'' in its place. Paragraph (a)(3) of § 23.571 does not exist, and the reference to § 23.571(c) should have remained. This document corrects § 23.573(b) to reflect the correct paragraph reference, § 23.571(c). This correction will not impose any additional requirements.

Technical Amendment

This technical amendment will correct § 23.573(b) to properly reference § 23.571(c).

Justification for Immediate Adoption

Because this action corrects an incorrect paragraph reference, the FAA finds that notice and public comment under 5 U.S.C. 553(b) is unnecessary. For the same reason, the FAA finds that good cause exists under 5 U.S.C. 553(d) for making this rule effective upon publication.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

The Amendment

■ Accordingly, Title 14 of the Code of Federal Regulations (CFR) part 23 is amended as follows:

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES

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

Authority: 49 U.S.C. 106(g), 40013, 44701, 44702, 44704.

■ 2. Amend § 23.573 by revising the first sentence in paragraph (b) introductory text to read as follows:

§ 23.573 Damage tolerance and fatigue evaluation of structure.

* * * * *

(b) *Metallic airframe structure.* If the applicant elects to use § 23.571(c) or § 23.572(a)(3), then the damage tolerance evaluation must include a determination of the probable locations and modes of damage due to fatigue, corrosion, or accidental damage. * * * * * * * * *

Issued in Washington, DC, on April 7, 2008.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

[FR Doc. E8–7649 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–0228]

Drawbridge Operation Regulations; Norwalk River, Norwalk, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Washington Street S136 Bridge, across the Norwalk River, mile 0.0, at Norwalk, Connecticut. While in effect, this deviation allows the bridge owner to open only one of the two moveable spans for bridge openings. Vessels that require a full two-span bridge opening will be required to provide at least a twelve-hour advance notice by calling the bridge operator. This deviation is necessary to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from April 1, 2008 through April 30, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0228 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 First Coast Guard District, Bridge Branch Office, One South Street, New York, New York, 10004, between 7

a.m. and 3 p.m., Monday through Friday, except Federal holidays, telephone number (212) 668–7165. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The Washington Street S136 Bridge, across the Norwalk River, mile 0.0, at Norwalk, Connecticut, has a vertical clearance in the closed position of 9 feet at mean high water and 16 feet at mean low water. The existing regulations are listed at 33 CFR 117.217(a).

The owner of the bridge, Connecticut Department of Transportation, requested a temporary deviation to facilitate scheduled structural maintenance and painting at the bridge.

In order to perform the structural and bridge painting operations, one of the two moveable spans must remain in the closed position in order to erect paint containment and perform the required bridge maintenance.

We issued a temporary deviation (USCG–2007–0185; 73 FR 1273, Jan. 8, 2008) authorizing single leaf operation for bridge painting effective from January 2, 2008 through March 31, 2008. On March 13, 2008, the bridge owner requested that the single leaf operation for bridge painting continue through the end of April 2008, to allow completion of this project.

Under this second temporary deviation the Washington Street S136 Bridge across the Norwalk River, mile 0.0, at Norwalk, Connecticut, need open only one of the two moveable spans for bridge openings from April 1, 2008 through April 30, 2008. Vessels requiring a full two-span bridge opening may do so provided that they give at least a twelve-hour advance notice to the bridge operator by calling (203) 866–7691.

Should the bridge maintenance authorized by this temporary deviation be completed before the end of the effective period published in this notice, the Coast Guard will rescind the remainder of this temporary deviation, and the bridge shall be returned to its normal operating schedule. Notice of the above action shall be provided to the public in the Local Notice to Mariners and the **Federal Register**, where practicable.

In accordance with 33 CFR 117.35(e), the bridge 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: April 1, 2008.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E8–7675 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 75

RIN 2900–AM63

Data Breaches

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts, without change, the interim final rule that was published in the **Federal Register** on June 22, 2007, addressing data breaches of sensitive personal information that is processed or maintained by the Department of Veterans Affairs (VA). This final rule implements certain provisions of the Veterans Benefits, Health Care, and Information Technology Act of 2006. The regulations prescribe the mechanisms for taking action in response to a data breach of sensitive personal information.

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

FOR FURTHER INFORMATION CONTACT: Jonelle Lewis, Office of Information Protection and Risk Management (005R), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Telephone: (202) 461–6400. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On June 22, 2007, VA published an interim final rule in the **Federal Register** (72 FR 34395). The interim final rule addressed data breaches of sensitive personal information that is processed or maintained by VA. This final rule implements 38 U.S.C. 5724 and 5727, which were enacted as part of Title IX of Public Law 109–461, the Veterans Benefits, Health Care, and Information Technology Act of 2006.

We provided a 60-day comment period that ended August 21, 2007. We received no comments. Based on the rationale set forth in the interim final rule, we adopt the provisions of the interim final rule as a final rule without any changes.

Administrative Procedure Act

This document, without change, affirms the amendment made by the interim final rule that is already in effect. The Secretary of Veterans Affairs concluded that, under 5 U.S.C. 553, there was good cause to dispense with the opportunity for prior comment with respect to this rule. The Secretary found that it was unnecessary to delay this regulation for the purpose of soliciting prior public comment based on the statutory mandate in 38 U.S.C. 5724 to publish the amendment as an interim final rule. Nevertheless, the Secretary invited public comment on the interim final rule but did not receive any comments.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this rule have been examined and it has been determined to be a significant regulatory action under the Executive Order because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any

given year. This rule would have no such effect on State, local, and tribal governments or the private sector.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act (5 U.S.C. 601–612) do not apply to this interim final rule because the provisions of 38 U.S.C. 5724 require that this document be promulgated as an interim final rule, and, consequently, a notice of proposed rulemaking was not required for the rule. 5 U.S.C. 603–604.

Catalog of Federal Domestic Assistance Numbers

There are no Catalog of Federal Domestic Assistance numbers and titles for this rule.

List of Subjects in 38 CFR Part 75

Administrative practice and procedure, Credit monitoring, Data breach, Data breach analysis, Data mining, Fraud alerts, Identity theft insurance, Information, Notification, Risk analysis, Security measures.

Approved: April 4, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

PART 75—INFORMATION SECURITY MATTERS

Accordingly, the interim final rule establishing 38 CFR part 75 that was published in the **Federal Register** at 72 FR 34395 on June 22, 2007, is adopted as a final rule without changes.

[FR Doc. E8–7726 Filed 4–10–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106673–8011–02]

RIN 0648–XH13

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from vessels using jig gear to catcher vessels less than 60 feet (< 18.3 meters (m)) length overall (LOA) using pot or hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the B season apportionment of the 2008 total allowable catch (TAC) of Pacific cod to be harvested.

DATES: Effective April 10, 2008, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2008.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (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 Pacific cod TAC specified for vessels using jig gear in the BSAI is 81 metric tons (mt) for the A season and 427 mt for the B season as established by the 2008 and 2009 final harvest specifications for groundfish in the BSAI (73 FR 10160, February 26, 2008) and reallocation (73 FR 11562, March 4, 2008).

The Administrator, Alaska Region, NMFS, has determined that jig vessels will not be able to harvest 400 mt of the B season apportionment of the 2008 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*1*). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS apportions 400 mt of Pacific cod from the B season jig gear apportionment to catcher vessels < 60 feet (18.3 m) LOA using pot or hook-and-line gear.

The harvest specifications for Pacific cod included in the harvest specifications for groundfish in the BSAI (73 FR 10160, February 26, 2008) are revised as follows: 108 mt to the B season apportionment for vessels using jig gear and 4,633 mt to catcher vessels < 60 feet (18.3 m) LOA using pot or hook-and-line gear.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified from jig vessels to catcher vessels < 60 feet (18.3 m) LOA using pot or hook-and-line gear. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 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.

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

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

Dated: April 7 2008.

Emily H. Menashes

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

[FR Doc. E8–7801 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 71
Friday, April 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20 and 32

RIN 3150–AI29

[NRC–2008–0200]

Expansion of the National Source Tracking System

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to expand the current National Source Tracking System (NSTS) to include certain additional sealed sources. The proposed amendments would require licensees to report certain transactions involving these sealed sources to the NSTS. These transactions would include the manufacture, transfer, receipt, disassembly, or disposal of the nationally tracked source. The proposed amendment would also require each licensee to provide its initial inventory of nationally tracked sources to the NSTS and annually verify and reconcile the information in the system with the licensee's actual inventory.

DATES: Submit comments on the proposed rule by June 25, 2008. Submit comments specific to the information collection aspects of this rule by May 12, 2008. Comments received after the above date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments on the rule by any one of the following methods. Please include the number RIN 3150–AI29 in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public in their entirety in NRC's Agencywide Document Access and Management System (ADAMS). Personal information, such as your name, address, telephone number, e-mail address, etc., will not be removed from your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: *Rulemaking.Comments@nrc.gov*. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301–415–1677. Comments can also be submitted via the Federal eRulemaking Portal *http://www.regulations.gov,* docket # NRC–2008–0200.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays (Telephone 301–415–1677).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

You may submit comments on the information collections by the methods indicated in the Paperwork Reduction Act Statement.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. 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*.

FOR FURTHER INFORMATION CONTACT: Michael Williamson, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6234, e-mail, *mkw1@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion
A. Rationale for Expanding the NSTS To Include Additional Source Categories
B. Enhanced Accountability Provided by These Amendments
C. Other Considerations
D. General Content of the Proposed Rule
III. Discussion of Proposed Amendments by Section
IV. Criminal Penalties
V. Agreement State Compatibility
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VIII. Environmental Impact: Categorical Exclusion
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XIII. Backfit Analysis

I. Background

After the terrorist attacks in the United States on September 11, 2001, the NRC conducted a comprehensive review of nuclear material security requirements, with particular focus on radioactive material of concern. This radioactive material (which includes Cobalt-60, Cesium-137, Iridium-192, and Americium-241, as well as other radionuclides) has the potential to be used in a radiological dispersal device (RDD) or a radiological exposure device (RED) in the absence of proper security and control measures. The NRC's review took into consideration the changing domestic and international threat environments and related U.S. Government-supported international initiatives in the nuclear security area, particularly activities conducted by the International Atomic Energy Agency (IAEA).

In June 2002, the Secretary of Energy and the NRC Chairman met to discuss the adequate protection of inventories of nuclear materials that could be used in a RDD. At the June meeting, the Secretary of Energy and the NRC Chairman agreed to convene an Interagency Working Group on Radiological Dispersal Devices to address security concerns. In May 2003, the joint U.S. Department of Energy (DOE)/NRC report was issued. The report was entitled, ''Radiological Dispersal Devices: An Initial Study to Identify Radioactive Materials of Greatest Concern and Approaches to Their Tracking, Tagging, and Disposition.'' One of the report's recommendations is development of a national source tracking system to better understand and monitor the location

and movement of sources of interest. The full report contains a list of radionuclides and thresholds above which tracking of the sources is recommended.

The NRC has also supported U.S. Government efforts to establish international guidance for the safety and security of radioactive materials of concern. This effort has resulted in a major revision of the IAEA Code of Conduct on the Safety and Security of Radioactive Sources (Code of Conduct). The revised Code of Conduct was approved by the IAEA Board of Governors in September 2003, and is available on the IAEA Web site. In particular, the Code of Conduct contains a recommendation that each IAEA Member State develop a national source registry of radioactive sources that includes at a minimum Category 1 and Category 2 radioactive sources as described in Annex 1 of the Code of Conduct. The source registry recommendation addressed 16 radionuclides.

The work on the DOE/NRC joint report was done in parallel with the work on the Code of Conduct and the development of IAEA TECDOC–1344, ''Categorization of Radioactive Sources.'' The IAEA published this categorization system for radioactive sources in August 2005 in its Safety Series as RS–G–1.9, Categorization of Radioactive Sources. The report, available on the IAEA Web site, provides the underlying methodology for the development of the Code of Conduct thresholds. The categorization system is based on the potential for sources to cause deterministic effects and uses the 'D' values as normalizing factors. The 'D' values are radionuclide-specific activity levels for the purposes of emergency planning and response. The quantities of concern identified in the DOE/NRC report are similar to the Code of Conduct Category 2 threshold values, so to allow alignment between domestic and international efforts to increase the safety and security of radioactive sources, NRC has adopted the Category 2 values. The NRC considers IAEA Category 2 (and higher) to be risk-significant radioactive material that has a potential to result in significant adverse impacts that could reasonably constitute a threat to the public health and safety, the environment, or the common defense and security of the United States.

Subsequently, the NRC published a final rule in the **Federal Register** on November 8, 2006 (71 FR 65686), establishing a national system for source tracking. Under this program, certain licensees who possess IAEA Category 1 and 2 sources are required to report information on the manufacture, transfer, receipt, disassembly, and disposal of nationally tracked sources. This information is to be used to support the National Source Tracking System (NSTS) and will provide the NRC with a life cycle account for these sources and, thus, improve accountability and controls over them. The final rule establishing the NSTS reflected the IAEA Code of Conduct recommendations that are consistent with the NRC's responsibilities under the Atomic Energy Act, including the protection of the public health and safety. The implementation date for the NSTS has been extended to January 31, 2009 (72 FR 59162).

The principal purpose of the NSTS is to provide reasonable assurance of timely detection of either the theft or diversion of radioactive materials sufficient to constitute quantities which should be of concern regarding the construction of a radiological dispersion device. This is consistent with one of the objectives of the Code of Conduct which is to prevent unauthorized access or damage to, and loss, theft or unauthorized transfer of, radioactive sources.

In the 2005 proposed rulemaking, the Commission specifically invited comments on whether Category 3 sources should be included in the NSTS. In response to the public comments received, the Commission indicated that it was deferring a final determination on what additional sources should be included in the NSTS to a subsequent rulemaking (71 FR 65692). The Commission is now conducting that subsequent rulemaking.

II. Discussion

In this rulemaking, NRC is proposing to amend its regulations to expand the NSTS to require licensees to report information on the manufacture, transfer, receipt, disassembly, and disposal of additional nationally tracked sources. In determining whether to expand the NSTS to include additional sources, the NRC has considered the need to balance the secure handling and use of the materials without discouraging their beneficial use in academic, medical, and industrial applications. Radioactive materials provide critical capabilities in the oil and gas, electrical power, construction, and food industries; are used to treat millions of patients each year in diagnostic and therapeutic procedures; and are used in technology research and development involving academic, government, and private institutions. These materials are as diverse in geographical location as they are in functional use.

Expanding the NSTS is part of a comprehensive radioactive source control program for radioactive materials of greatest concern, as discussed SECY–07–0147, ''Response to U.S. Government Accountability Office Recommendations and other Recommendations to Address Security Issues in the U.S. NRC Materials Program,'' dated August 25, 2007. Although neither the currently planned NSTS, nor an expanded NSTS, can ensure the physical protection of sources, the NSTS can provide greater source accountability and, as part of an overall effort, in conjunction with other related activities (*e.g.*, web based licensing, pre-licensing site visits, and increased controls orders), improve the control of radioactive sources and protect public health and safety, as well as common defense and security.

Section II of this preamble discusses the overall rationale for expanding the NSTS to include additional sources (Section II.A); how these amendments can improve accountability of sources (Section II.B); and other considerations (Section II.C). The general content of the proposed rule is discussed in Section II.D.

A. Rationale for Expanding the NSTS To Include Additional Source Categories

A.1 Congressional Concerns/GAO Investigations

Concerns by members of the U.S. Congress, and the Government Accountability Office (GAO), have been expressed regarding the aggregation of lower activity sources whose activity level, if taken together, could exceed the Category 2 threshold. Although a GAO investigation involved obtaining sources lower than Category 3 (i.e., in the low range of Category 4), the concerns expressed by members of Congress and the GAO over security issues associated with the NRC materials program have been considered in this rulemaking. Specifically, as a result of an investigation, GAO stated in its report (GAO Testimony, GAO–07–1038T, ''Actions Taken by NRC to Strengthen Its Licensing Process for Sealed Radioactive Sources'', July 12, 2007) that NRC should regulate Category 3 sources more stringently (Recommendation B of the report) and that NRC should consider including Category 3 sources in the NSTS (Recommendation B.2).

A.2 Recent NRC Actions

In addition to the issues noted by the GAO, the NRC staff prepared SECY–06–0094, ''Tracking or Providing Enhanced Controls for Category 3 Sources,'' April 24, 2006, for the Commission's review. This paper contained options for tracking and/or providing enhanced controls for Category 3 sources. In response to that paper, the Commission provided direction to the NRC staff in SRM–SECY–06–0094, dated June 9, 2006, regarding enhanced controls for Category 3 sources. Specifically, the SRM noted that the staff should submit a proposed rule for the Commission to consider including Category 3 data in the NSTS.

Subsequently, in response to Recommendations B and B.2 of the GAO report discussed in this preamble, NRC staff provided the Commission with an Action Plan in SECY–07–0147. The Action Plan, entitled ''Action Plan to Respond to Recommendations to Address Security Issues in the U.S. NRC Materials Program,'' included, as Recommendation S–2b, an action that the scope of the NSTS rulemaking be expanded to include sources at a level of 1/10 of Category 3. The Commission approved the staff's Action Plan on September 18, 2007, in SRM–SECY–07–0147.

A.3. Considerations Regarding the Need for Expanding the NSTS and the Extent to Which the NSTS Should Be Expanded, i.e., What Categories (or Sub-Groups of Categories) of Sources To Be Included

A.3.1 The Five IAEA Categories and the Relative Health and Safety Risk Posed by Sources in Those Categories

The IAEA source categorization scheme includes five categories.[1] These categories are based on the potential for sources to cause deterministic health effects to persons exposed to them. Sources in Category 1 are considered to be the most 'dangerous' because they can pose a very high risk to human health if not managed safely and securely. At the lower end of the categorization system, sources in Category 5 are the least dangerous; however, even these sources could give rise to doses in excess of the dose limits if not properly controlled. Based on analysis of potential health effects, each of the IAEA Categories contain radioactive material in sealed sources in quantities that can be characterized as follows:

Category 1: greater than or equal to the Category 1 threshold (*e.g.*, for Cobalt-60 (Co-60): 810 Curies (Ci)); these sources are typically used in practices such as radiothermal generators, irradiators and radiation therapy.

Category 2: less than the Category 1 threshold but equal to or greater than the Category 2 threshold (which is 1/100 of Category 1) (*e.g.*, for Co-60: 8.1 Ci); these sources are typically used in practices such as industrial gamma radiography and high and medium dose rate brachytherapy.

Category 3: less than the Category 2 threshold but equal to or greater than the Category 3 threshold (1/10 of Category 2) (*e.g.*, for Co-60: 0.81 Ci); these sources are typically used in practices such as fixed industrial gauges involving high activity sources.

Category 4: less than the Category 3 threshold but equal to or greater than the Category 4 threshold (1/100 of Category 3) (*e.g.*, for Co-60: 0.0081 Ci);

Category 5: less than the Category 4 threshold down to IAEA exempt quantities.

The scope of IAEA's *Code of Conduct on the Safety and Security of Radioactive Sources* is limited to Categories 1–3, *i.e.*, those having the highest potential to cause permanent injury or death when used in a malevolent manner.

A.3.2 Rationale in the Existing NSTS Rule for Imposing the Requirement To Track Category 1 and 2 Sources

In the rulemaking establishing the NSTS for Category 1 and 2 sources, specific rationale was provided for establishing tracking and inventory requirements for Category 1 and 2 sources. In that rulemaking, as discussed in Section I of this preamble, it was noted that the DOE/NRC analysis of potential health effects from use of sources in a RDD or a RED identified radionuclide ''quantities of concern'' to be in a range similar to the IAEA Category 2 threshold values. Therefore, to allow alignment between domestic and international efforts to increase safety and security of radioactive sources, NRC adopted the IAEA Category 2 values and used them as a threshold in its rulemaking decision regarding sources requiring tracking and inventorying in a national source tracking system.

A.3.3 Discussion in the Previous NSTS Rulemaking for Including Additional IAEA Categories in the NSTS

In conducting the rulemaking to establish the NSTS, the Commission noted that Category 3 sources could be included in the NSTS in the future, citing the potential that a licensee possessing a large number of Category 3 sources could present a security concern. Therefore, as part of that rulemaking, the Commission sought comment and information on the issue of including Category 3 sources in the NSTS. These comments are summarized in Section II.C.2. Based on its review of those comments, the Commission, in issuing the final rule to establish the NSTS, noted that it did not have adequate information at that point in time to support inclusion of Category 3 sources in the NSTS, however, it also noted that it was working to develop additional information by conducting a one-time survey of sources at a level of 1/10 of Category 3. The Commission then noted that, in that rulemaking, it was not making a final determination on what additional sources should be included in the NSTS and that if additional material is added to the NSTS, it would be done through subsequent rulemaking. The Commission is now conducting that subsequent rulemaking.

A.3.4. Rationale for Inclusion of Additional Sources in an Expanded NSTS in This Rulemaking

In preparing this proposed rule, NRC has determined that there is a need to enhance the tracking of lower activity sources to improve accountability for these sources and to provide the ability to detect situations where a licensee's aggregate sources would create larger (more dangerous) quantities. At issue is the extent appropriate for expanding the NSTS beyond Category 2, *i.e.*, should the NSTS be expanded to include IAEA Category 3 sources (as suggested in the June 9th, 2006 SRM) or should it be expanded even further to include sources that are 1/10 of the Category 3 threshold (as suggested in the August 25, 2007 Action Plan). Consideration was also given to expanding the NSTS to include sources in the low end of Category 4 or in Category 5. The rationales for expanding the NSTS to include Category 3 sources and to include lower category sources are provided in Sub-Sections A.3.4.1 and A.3.4.2, respectively.

A.3.4.1 Inclusion of Category 3 Sources in the NSTS

The Commission believes that it is clear that there is a need to enhance the accountability and control of Category 3 sources (i.e., those that are greater than or equal to the IAEA Category 3 threshold) through improved tracking of these sources. The following are the principal rationale for the Commission's decision regarding Category 3 sources:

[1] RS–G–1.9 ''Categorization of Radioactive Sources.''

(a) *Category 3 sources are defined as dangerous by IAEA:* The IAEA defines Category 3 sources (as well as the Category 1 and 2 sources) as ''dangerous sources'', i.e., a source that could if not under control give rise to exposure sufficient to cause severe deterministic effects, although it left to its individual member States whether it would be necessary to actually set up a tracking system for these sources.

(b) *There is potential for aggregation of Category 3 sources to a Category 2 level:* Category 3 sources could be easily aggregated to Category 2 levels, as part of a concerted effort to do so, as they represent sources with activity levels that range from just below the Category 2 threshold down to 1/10 of the Category 2 threshold. Thus, sources at the high end of the range of activities in Category 3 can be at levels just below the threshold of a Category 2 source, meaning that it would take only a few sources to aggregate to Category 2. Adding these sources to the NSTS with its inventory and tracking requirements will provide for increased accountability for these sources because there would a near real-time knowledge of source whereabouts and an ability to confirm an individual licensee's account of their sources.

(c) *Types of licensees that possess Category 3 sources:* The major categories of licensees who possess Category 3 sources include those with fixed industrial gauges (level gauges, conveyor gauges, thickness gauges, blast furnace gauges, dredger, pipe gauges); those who conduct well-logging operations; medical facilities with brachytherapy machines; and some radiographers with relatively low activity sources. Because these sources are thus relatively widespread in use and relatively broadly used in industry, there would be potential for aggregation of sufficient numbers of them to Category 2 levels.

(d) *Additional burden to comply with these requirements is considered reasonable to incur for the benefit in improved source accountability:* Adding Category 3 sources to the NSTS would result in increased burden to the NRC and to the licensed industry for implementation and maintenance of the expanded NSTS. In the Regulatory Analysis for this rulemaking (summarized in Section XI of this FRN), the Commission analyzed the additional costs and benefits of expanding the NSTS to Category 3 levels. As noted in the Regulatory Analysis, the existing NSTS has approximately 1300 NRC and Agreement State licensees and an expanded NSTS under this proposed rule to include Category 3 sources would add approximately 1000 licensees. As estimated in the Regulatory Analysis, the resultant overall annual cost to the industry and to the NRC would be approximately doubled as a result of this expansion of the NSTS to Category 3, however the Commission believes that this additional burden would be reasonable to incur given the additional improvement in accountability for these sources.

(e) *Additional sources can be accommodated by the NSTS:* As noted in Section II.C.1 of this preamble, the Commission believes that the existing NSTS system can accommodate these additional licensees and sources based on its expandability and flexibility and that, if NRC applies the appropriate resources, that monitoring of the expanded NSTS would not divert attention from the monitoring of higher-risk Category 1 and 2 sources.

(f) *Consideration of earlier public comment:* In reaching its decision to include Category 3 sources, the Commission considered the comments received regarding inclusion of Category 3 sources during the rulemaking to establish the NSTS for Category 1 and 2 sources. These comments are summarized in Section II.C.2 of this preamble. Briefly stated, a number of commenters supported inclusion of Category 3 sources in the NSTS for some of the same reasons as previously noted, whereas a larger number of commenters opposed the inclusion of Category 3 sources based on the relatively low risk they present compared to the large increased burden of adding these sources to the NSTS. The Commission believes that it has considered the concerns of the commenters, pro and con, and evaluated the additional burdens which the rule would impose, in reaching its decision.

Based on the considerations previously noted, the definition of Category 3 as dangerous, and the potential for aggregation to Category 2, the Commission believes that the same information to be included in the NSTS for Category 1 and Category 2 sources is also needed for Category 3 sources. Expanding the scope of the NSTS will provide for Category 3 sources the same single source of information as collected for Category 1 and 2 sources. Although separate NRC and Agreement State systems contain information on Category 3 source licensees and the maximum amounts of materials they are authorized to possess, those systems do not record actual sources or their movements.

Thus, to address this lack of information on such issues as actual materials possessed, the NRC is proposing, as part of this proposed rule, to expand the NSTS to include sources greater than or equal to the IAEA Category 3 threshold levels. Expanding the NSTS to Category 3 sources would provide NRC with information regarding purchases/transactions of sufficient numbers of Category 3 sources that could be aggregated into the equivalent of Category 2 sources. Tracking specific transactions of Category 3 sources enhances accountability and would detect situations where a licensee's aggregate sources would create larger (more dangerous) quantities.

A.3.4.2 Inclusion of Lower Category Sources in the NSTS, in Particular 1/10 of Category 3

The Commission has also given consideration to expanding the NSTS to sources below the Category 3 threshold. Specifically, the staff considered expanding the NSTS to include a subset of IAEA Category 4 sources that are in the high end of Category 4 (at a level of 1/10 of the Category 3 threshold). The staff also considered whether to expand the NSTS to include all of Category 4 (the Category 4 threshold is 1/100 of the Category 3 threshold) and Category 5.

A principal rationale for including sources at the high-end of the Category 4 range of activities (*i.e.*, at 1/10 of Category 3) is the potential that a sufficient number of these higher-activity Category 4 sources could be obtained and aggregated to create the equivalent of Category 2 sources. These ''high-end'' Category 4 sources can be at levels just below the threshold of a Category 3 source, which is about 1/10 of the threshold of a Category 2 source, meaning that it would require about 10–12 of these sources to aggregate to Category 2 quantity. These high-end Category 4 (1/10 of Category 3) sources are possessed by the same licensees noted to have Category 3 sources, namely those with fixed industrial gauges, those who conduct well-logging operations, medical facilities with brachytherapy machines, and a few radiographers, and as previously noted, are relatively widespread in use and broadly used in industry, thus allowing for the potential for aggregation of sufficient numbers of them to Category 2 levels. As noted in this preamble for Category 3 sources, the Commission analyzed additional costs and benefits of expanding the NSTS to 1/10 of Category 3 levels. As noted in the Regulatory Analysis, an expanded NSTS to include 1/10 of Category 3 sources would add approximately 2500 licensees with a resultant overall annual

cost to the industry and to the NRC that would be approximately doubled again.

The Commission also considered including all of Category 4 sources (and/or Category 5) in the NSTS, however in both cases it was decided that, because of the magnitude of the thresholds of each of these categories and the lower likelihood that sources at the lower range of Category 4 or in Category 5 could be aggregated to the higher category levels, that they would not be included in the expansion of the NSTS.

Based on these considerations of the nature of the sources at 1/10 of Category 3, their potential to aggregate to Category 2, and the costs to the licensed industry and the NRC, the NRC has decided to also include in the NSTS, sources below the Category 3 threshold, but greater than or equal to a 10th of the Category 3 threshold. This is consistent with the Code of Conduct which encourages countries to give appropriate attention to radioactive sources considered to have the potential to cause unacceptable consequences if employed for malicious purposes and to aggregation of lower activity sources. The Commission believes that the additional costs are reasonable to incur given the additional improvement in accountability for these sources, given their potential to be aggregated to more dangerous quantities. The Commission believes that the existing NSTS can accommodate these additional sources and that the NRC can expend the additional resources to monitor these sources without detracting from the monitoring of Category 1 and 2 sources.

The NRC specifically invites comment on the inclusion of these sources at 1/10 of Category 3 in the NSTS. The staff is interested in information concerning:

(1) The number of additional licensees that would be impacted;

(2) The number of sources between the Category 3 threshold and 1/10 of the Category 3 threshold that are possessed by licensees and the activity levels of those sources relative to both of those values;

(3) How often these sources are involved in transactions (manufacture, shipping, receipt, disposal, etc) and the nature of the transaction process, including the ease of obtaining the sources and the cost of the sources.

This information will enable the NRC to make a more informed decision on the inclusion of sources greater than or equal to 1/10 of Category 3 in the NSTS.

B. Enhanced Accountability Provided by These Amendments

The NSTS, as currently planned for Category 1 and 2 sources, is a web-based system that provides the NRC and Agreement States with information related to transactions involving nationally tracked sources. This information includes details of transfers of sources between manufacturers and licensees, and disposal sites, for IAEA Category 1 and 2 sources.

Expanding the NSTS to include additional nationally tracked sources would use the same web-based system as for Category 1 and 2 sources, namely providing the NRC with information regarding transactions involving sufficient numbers of these additional sources that could be aggregated into the equivalent of Category 2 source. By tracking specific transactions involving these additional nationally tracked sources, the NRC will be in a better position to track aggregation of these sources and improve accountability for these sources. In addition, with an expanded NSTS, NRC can be alert to discrepancies between transaction reports of manufacturing and distribution licensees and of the persons to whom the shipment of sources is being made. Also, data from the NSTS could be used in conjunction with other data management systems to provide for better source accountability.

C. Other Considerations

C.1 Other Alternative Approaches for Improving Accountability Require Only Inventorying of Additional Categories of Sources

Another alternative approach considered for this rulemaking would be to simply require licensees with sources greater than or equal to either the Category 3 threshold or 1/10 of the Category 3 threshold to conduct and report inventories of nationally tracked sources. However, this alternative would not provide the necessary near real-time knowledge of source transactions and, in addition, lack of transaction data from other licensees would not tend to lead to a cross-check for accurate reporting of inventories. In addition, there would still be significant costs incurred as a result of such a rule including the costs of setting up an account in the NSTS (including licensee credentialing); of conducting inventories; of marking serial numbers; of inspections; of preparing Agreement State regulations; and of NRC system monitoring, operation, and maintenance.

C.2 Potential Effects on the Existing NSTS for Category 1 and 2 Sources

An important consideration in the NRC's decision to propose expansion of the NSTS is whether the expanded NSTS would divert attention from, or otherwise compromise the currently planned NSTS. In the SRM for SECY–06–0094, the Commission directed the staff to ensure that the NSTS is capable of being modified to include Category 3 sources, and that an expanded NSTS does not divert attention or resources from oversight of Category 1 and 2 sources.

This is an important consideration because activities to review new data in the NSTS for the lower activity sources that would now be a part of the NSTS should not divert NRC attention from reviewing and monitoring licensee inventorying and tracking of the higher Category 1 and 2 which present a higher risk to human health. It is expected that expansion of the NSTS will not compromise the information technology (IT) aspects of the NSTS due to the capabilities incorporated into the NSTS software. Because the IT design and software is flexible and expandable, it can accommodate the anticipated number of licensees and sources and the corresponding tracking activities under the proposed expansion of the NSTS. Thus, it is anticipated that implementation of the expanded NSTS can begin in the timeframe noted in Section II.D.7 of the preamble. In addition, although it is recognized that additional effort will be needed to monitor an expanded NSTS, NRC should be able to continue to adequately monitor both the Category 1 and 2 sources in the existing NSTS and the additional sources in the expanded NSTS and identify possible concerns with aggregation of sources, if it uses the appropriate additional resources which are discussed in the summary of the Regulatory Analysis, Section XI.

C.3 Previous Comments Received Regarding Inclusion of Category 3 Sources in the NSTS During the Rulemaking To Establish the NSTS for Category 1 and 2 Sources

Another consideration is the public comment received on the proposed rule for establishing the NSTS for IAEA Category 1 and 2 sources. As noted in Section I of this preamble, the proposed rulemaking the Commission issued specifically invited public comment. The public comments received on this subject were discussed in the November 6, 2006 final rule FRN establishing the NSTS.

The discussion in the final FRN noted that six commenters supported inclusion of Category 3 while eighteen commenters opposed it. Reasons given for supporting inclusion included that certain Category 3 sources pose comparable threats to Category 2; that there was concern over threats to

national security from potential aggregation of Category 3 sources; that IAEA defines Category 3 sources as being dangerous and carrying a potential risk of harm warranting inclusion in a tracking system; and that these sources could be tracked with a modest additional investment. These commenters noted that the inclusion of Category 3 sources should not disrupt implementation of the NSTS for Category 1 and 2 sources. Commenters opposing inclusion of Category 3 sources in the NSTS generally cited the increased burden that would be imposed on licensees and the NRC. Most of these commenters did not provide specific numbers but indicated that inclusion of Category 3 sources would cause a significant increase in the number of transaction reports and unduly burden manufacturers and distributors. These commenters also noted that many of the Category 3 sources are lower risk and do not pose a significant threat compared to Category 1 and 2. These commenters were concerned that inclusion of Category 3 sources would bog down the NSTS and suggested that a better approach would be to require inventory reporting rather than source transactions.

In response to all of these commenters, the Commission, in issuing the final rule establishing the NSTS for Category 1 and 2 sources, noted that it did not have adequate information at that point in time to support inclusion of Category 3 sources in the NSTS. The Commission also noted that it was working to develop additional information by conducting a one-time survey of sources at a level of 1/10 of Category 3. The Commission then noted that, in that rulemaking, it was not making a final determination on what additional sources should be included in the NSTS and that if additional material is added to the NSTS, it would be done through subsequent rulemaking, which is what the Commission is currently conducting. In preparing this proposed rule, the NRC has re-considered the relative concerns over accountability and control of these sources; the relative risk the sources may present; the potential for aggregation of lower activity sources to higher IAEA Category levels; and the flexibility and expandability of the existing NSTS to accommodate additional sources. Based on additional information developed, the NRC has also prepared a detailed regulatory analysis of the number of additional licensees and sources that would be included in an expanded NSTS and the effect on licensees, the Agreement States and the NRC. Based on its consideration of the comments and of the results of the Regulatory Analysis, the Commission is proceeding with the proposed rule for expansion of the NSTS.

D. General Content of the Proposed Rule

Based on the considerations of Sections II.A—II.C, NRC is proposing to expand the NSTS by requiring licensees with additional nationally tracked sources to report information to the NSTS on the manufacture, transfer, receipt, disassembly, and disposal of nationally tracked sources. The expanded NSTS would remain consistent with recommendations in the IAEA Code of Conduct for development of a national register of radioactive sources.

This section contains specific information on the content and implementation of this expanded NSTS. The actions required of the additional licensees with sources added to the NSTS are the same as those for licensees currently within the scope of the NSTS. The following discussion is based on supplementary information in the FRN for the final rule establishing the NSTS for IAEA Category 1 and 2 sources (71 FR 65686, November 8, 2006). This section is intended to provide licensees new to the NSTS, i.e., those with Category 3 sources and sources greater than or equal to 1/10 of Category 3, but less than Category 2, with similar information as was provided in the FRN for the final rule for the establishment of the NSTS for IAEA Category 1 and 2 sources.

D.1 Definition of a Nationally Tracked Source

A sealed source consists of radioactive material that is permanently sealed in a capsule or closely bonded to a non-radioactive substrate designed to prevent leakage or escape of the radioactive material. In either case, it is effectively a solid form of radioactive material which is not exempt from regulatory control. Under this proposed rule, the definition of a nationally tracked source would be revised to include sealed sources containing a quantity of radioactive material equal to or greater than the 1/10 of Category 3 levels listed in the proposed amended Appendix E to 10 CFR Part 20. A nationally tracked source may be either a Category 1 source, a Category 2 source, a Category 3 source or, a 1/10 of Category 3 source. For the purpose of this rulemaking, the term nationally tracked source does not include material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Material encapsulated solely for disposal refers to material that without the disposal packaging would not be considered encapsulated. For example, a licensee's bulk material that it plans to send for burial may be placed in a matrix (e.g. mixed in concrete), to meet burial requirements. The placement of the radioactive material in the matrix material may be considered encapsulating. This type of material would not be covered by the rule. However, if a nationally tracked source were to be placed in a matrix material, the sealed source would still be covered by the rule.

The specific radioactive material and activity levels covered by this proposed rule are listed in the proposed revised Appendix E to 10 CFR Part 20. These activity values are 1/10 of the Category 3 values in Table 1 of the IAEA Code of Conduct. The Code of Conduct recommends that at a minimum the radionuclides and the threshold values for Category 1 and 2 should be included in a national source registry. The U.S. Government has formally adopted these values to align domestic and international efforts to increase the safety and security of certain radioactive sources.

The Terabecquerel (TBq) values listed in Appendix E would be the regulatory standard. The curie (Ci) values specified are obtained by converting the TBq value. The Ci values are provided for reference only and are rounded after conversion. The curie values are not intended to be the regulatory standard.

D.2 Who Would be Affected by This Action

The proposed rule would apply to any person (entity or individual) in possession of a Category 3 source or source greater than or equal to 1/10 of Category 3. It would apply to—

—Licensees with either NRC licenses or with Agreement State licenses;

—Manufacturers and distributors of Category 3 sources, and sources greater than or equal to 1/10 of Category 3;

—Medical facilities, radiographers, well-loggers, licensees using fixed gauges, and any other licensees that are the end users of nationally tracked sources;

—Disposal facilities and waste brokers; and

—Owners of a source that is not actively used or in long-term storage.

Nationally tracked sources (as the definition would be expanded by this proposed rule) include sources

possessed by various types of licensees, but primarily by byproduct material licensees, and are used in the oil and gas, electrical power, construction, medical, food industries, and in technology research and development. The definition of nationally tracked sources would be modified by this rulemaking to include Category 3 and sources greater than or equal to 1/10 of Category 3 based on the activity level of the radioactive material. Category 3 sources or sources greater than or equal to 1/10 of Category 3 are typically used in devices such as medical brachytherapy units, well-logging, fixed gauges used throughout various industries, and radiography units in which the radioactivity has decreased from higher IAEA Category 2 levels due to radioactive decay.

D.3 How Information Would Be Reported to the NSTS

Licensees have several methods for providing the required information under the existing NSTS (see Section II.D.4 of this preamble for the specific information that would be reported to the NSTS). Under the proposed expanded NSTS, these methods would continue to include on-line, computer-readable format files, paper, fax, and telephone and are described below:

—*Reporting information on-line:* For most licensees, the most convenient, least burdensome method will be to report the information on-line. In this method, licensees can log on to the system and enter the required information by filling out a form on-line. To report information on-line, a licensee would need to establish an account with the NSTS. Once an account is established, the licensee would be provided with password information that would allow access to the on-line system. A licensee would have access only to information regarding its own material or facility; a licensee would not have access to information concerning other licensees or facilities. When logged on, the licensee could type the necessary information onto the on-line forms. Once a source is in the system, the licensee would be able to click on the source and report a transfer or other transaction. The identifying information would not need to be typed in a second time because information such as license number, facility name, and address would pop up automatically.

—*Computer-readable format:* Many licensees conduct a large number of transactions, especially manufacturing and distribution licensees. We recognize that most licensees have a system in which information on sources is maintained. The NSTS will be able to accept batch load information using a computer-readable format. This should ease the reporting burden for a licensee with a large number of transactions. The licensee would be able to electronically send a batch load using a computer readable format file that contained all of the transactions that occurred that day. The format could also be used for reporting the initial inventory. NRC and the entity responsible for developing the NSTS will work with licensees to develop the mechanism to accept batch load information so that it is compatible with many of the existing systems in use by licensees.

—*Paper submittals by mail, fax, or telephone:* Licensees would also be able to complete a paper version of the National Source Tracking Transaction form and submit the form by either mail or fax. Licensees would also be able to provide transaction information by telephone and then follow-up with a paper copy.

D.4 Specific Information That Licensee Would Report Under the Expanded NSTS

Under the requirements of the NSTS, the additional licensees covered by the NSTS would be required to conduct the following actions:

—Report their initial inventory of sources greater than or equal to 1/10 of Category 3 nationally tracked sources to NSTS;

—On an annual basis, reconcile and verify the inventory of sources greater than or equal to 1/10 of Category 3 possessed against the data in the NSTS;

—Complete and submit a National Source Tracking Transaction Report (i.e., NRC Form 748) after each transaction involving a Category 3 or a 1/10 of Category 3 source;

—Correct any errors in previously filed National Source Tracking Transaction Reports within five business days of the discovery; and

—For licensees who manufacture a Category 3 or 1/10 of Category 3 nationally tracked source, assign a unique serial number to each source.

How licensees would carry out these requirements is discussed in more detail in the following subsections.

D.4.1 Reporting Initial (Current) Inventory to the NSTS

As noted, licensees would be required to report their initial (i.e., current) inventory of nationally tracked sources by a specified date. Licensees would be required to report all sources greater than or equal to 1/10 of Category 3 to the NSTS by July 31, 2009.

To ease the implementation of the reporting process, information already in NRC's One-Time Data Collection would be downloaded to the NSTS. A licensee whose nationally tracked source information was reported to the One-Time Data Collection database would be provided a copy of its information and would need only to either verify the information or provide updated information. NRC staff and the entity that operates the NSTS will work with licensees to make sure the inventory information is correct. A licensee whose information was not reported to the One-Time Data Collection database would need to report the information on its nationally tracked source inventory by specified date above. Disposal facilities would not need to report sources that have already been buried or otherwise disposed.

D.4.2 Annual Reconciliation and Verification of Information in the NSTS

Licensees would be required to reconcile their on-site inventory of nationally tracked sources with the information previously reported to the NSTS. This reconciliation would occur during the month of January of each year. This reconciliation would be necessary to maintain the accuracy and reliability of the National Source Tracking database. The licensee would be able to print a copy of the inventory information from the NSTS. Licensees without on-line access would receive a paper copy of the information in the NSTS. The licensee would compare the information in the system to the actual inventory at the licensee's facility, including a check of the model and serial number of each source. This reconciliation would not require the licensee to conduct an additional physical inventory of its sources. Under current regulations, licensees are currently required to conduct physical inventories annually, semi-annually, or quarterly depending on the type of license. The licensee would be required to reconcile any differences by reporting the appropriate transaction(s) or corrections to the NSTS. The licensee would be required to verify by the end of January of each year that the inventory in the NSTS is correct. The first reconciliation would occur in January 2010.

D.4.3 Reporting Transaction Information to the NSTS

Prompt updating of the NSTS is necessary for it to be useful and accurate. In order to capture information as soon as possible, licensees would be required to report information on nationally tracked source transactions by the close of the next business day after the transaction. To ease the burden on licensees, any of the methods for reporting the information listed in Section E.3 may be used. Specific transaction information that would be required is discussed in the following subsections.

D.4.3.1 Reporting Information on Source Manufacture

Sources Manufactured in the United States: When a nationally tracked source is manufactured in the United States, the source manufacturer licensee would be required to report the source information to the NSTS. The information must be reported by the close of the next business day after manufacture and includes: Manufacturer (make), model number, serial number, radioactive material, activity at manufacture, and manufacture date for each source. The licensee must also provide its license number, facility name, as well as the name of the individual that prepared the report.

Recycled, Reconfigured, and Disassembled Sources: Some sources are recycled, reconfigured, or disassembled. For example, a source that has decayed below its usefulness may be returned to the manufacturer for reconfiguration or disassembly. The decayed source may be placed in a reactor and reactivated, or placed in storage. The source retains its serial number, but now has a new activity. The new activity and creation date of the source must be reported to the NSTS.

Imported Sources: For every nationally tracked source that is imported, the facility obtaining the source would be required to report the information on the manufacture of the source to the NSTS by the close of the next business day after receipt of the imported source at the site. For the purposes of the NSTS, this would be considered the source origin unless the source had been previously possessed in the United States. The licensee would need to report the manufacturer (make), model number, serial number, radioactive material, activity at manufacture or import, and manufacture or import date for each source. The licensee must also provide its license number, facility name, address, as well as the name of the individual that prepared the report and the date of receipt. The licensee would also need to provide information on the facility (name and address) that sent the source and the import license number if applicable. **Note:** Only Category 1 and Category 2 sources including multiple sources that aggregate to at least a Category 2 level on a per shipment basis, require a specific NRC import license.

The NRC is interested in determining whether specific requirements for tracking should also be included in 10 CFR Part 110 and specifically invites comment on this question.

D.4.3.2 Reporting Information on Source Transfer

Transfers between licensees: Each time a nationally tracked source is transferred to another facility authorized to use or possess the source, the licensee would be required to report the transfer to the NSTS by the close of the next business day. The licensee must report the recipient name (facility the source is being transferred to), address, license number, the shipping date, the estimated arrival date, and the identifying source information (manufacturer, model number, serial number, and radioactive material). The licensee also would need to provide its name, address, and license number, as well as the name of the individual making the report. For nationally tracked sources that are transferred as waste under a Uniform Low-level Radioactive Waste Manifest, the licensee would also have to report the waste manifest number and the container identification number for the container with the nationally tracked source.

Transfers where the source stays within the licensee's possession: Source transfer transactions only cover transfers between different licensees and/or authorized facilities. They do not include transfer to a temporary job site. Transactions in which the nationally tracked source remains in the possession of the licensee would not require a report to the NSTS. For example, a radiographer conducting business would not need to report transfers between temporary job sites, even if the temporary job site is located in another state or if the work is conducted under a reciprocity agreement.

Export of sources: Export of sources would be treated as a transfer. An export is considered a reversible endpoint (e.g., a place of use or storage that is not a temporary job site) because the source can be imported back into the country. The export license number would be reported as the license number of the receiving facility. **Note:** Only Category 1 and 2 sources, including multiple sources that aggregate to at least a Category 2 level on a per shipment basis, are required to have a specific NRC export license. Most Category 3 and below sources can be exported under a general license in accordance with 10 CFR 110.23.

D.4.3.3 Reporting Information for Receipt of Sources

Receipt of sources: A licensee would be required to report each receipt of a nationally tracked source by the close of the next business day. The licensee must report the identifying source information (manufacturer, model number, serial number, and radioactive material) and the date of receipt. The licensee also must include its facility name and license number and the name of the individual that prepared the report. In addition, the licensee must provide the name and license number of the facility that sent the source because this information is necessary to match the transactions.

Receipt of imported sources: If the source received is an import, the licensee would also need to report the source activity and associated activity date. The import license number would be reported as the license number of the sending facility.

Receipt of sources in a waste shipment: If a licensee receives a nationally tracked source as part of a waste shipment, the licensee must provide the Uniform Low-level Radioactive Waste Manifest number and the container identification for the container that contains the nationally tracked source. A waste broker or disposal facility are examples of licensees that might receive a nationally tracked source as part of a waste shipment. These licensees would not be expected to open the waste container and verify the presence of the nationally tracked source; they may rely on the information from the licensee who shipped the source.

D.4.3.4 Reporting Information on Source Disposal

Licensees sending a source for disposal: Licensees sending a source to a low-level burial ground for disposal would treat the transaction as a transfer (see Section II.D.4.3.2), and would report the types of information to be reported for a transfer, along with the waste manifest number and the container identification number.

Disposal facilities: Disposal of a source would be reported by the

licensee conducting the actual burial in a low-level disposal facility or other authorized disposal mechanism. The disposal facility may rely on the information from the licensee that sent the waste for disposal and is not expected to open the waste container to verify contents. The disposal facility must report to the NSTS the date and method of disposal, the waste manifest number, and the container identification number for the container with the nationally tracked source. The disposal facility must also provide its facility name and license number, as well as the name of the individual that prepared the report. The report must be made by the close of the next business day.

D.4.3.5 Information Regarding Reporting (or Not Reporting) of Other Source Endpoints

Decay of sources: One feature of the NSTS would be that the decay of a source would be automatically calculated so a licensee would not need to report an endpoint of decay. Once a source has decayed below 1/10 of Category 3 threshold level, it would no longer be considered a nationally tracked source, and the source would automatically be removed from a licensee's active inventory in the NSTS. The licensee would receive a notification that the source has decayed below the tracking level, and that transactions for this source no longer need to be reported. The data on the source, however, will be retained in the system.

Accidental destruction of sources: Licensees currently report accidental destruction of sources to the NRC Operations Center or to the Agreement States. NRC staff would enter the information from the event report into the NSTS. Because sealed sources are designed to be robust, accidental destruction should be and is rare.

Lost or stolen sources or source abandoned in a well: These endpoints would be captured by the NSTS. These events are already reported to either NRC or to the Agreement States. Licensees would not be required to report this information a second time to the NSTS. Agreement State licensees would continue to report to the Agreement State. NRC staff would obtain the information on these events from the event reports or the Nuclear Medical Event Database and enter the information into the NSTS.

D.4.4 Reporting Errors in Transaction Reports

Data integrity for the NSTS is extremely important and necessary to keep the information correct and up-to-date. Licensees are expected to provide correct information to the NSTS and to double-check the accuracy of information before submission.

However, the NRC recognizes that some transactions may be missed and that errors may creep into the system over time. Typical reasons for discrepancies could be failure to report the receipt of a source, failure to report the transfer of a source to another licensee, finding a source that was missed during the reporting of the initial inventory, selection of the wrong model number, or incorrect typing of the serial number.

Each licensee would be required to correct any errors or missed transactions that it discovers, and to correct any of their inaccurate information in the NSTS, regardless of the origin of the error, within 5 business days of the discovery. Typing errors and errors such as inadvertent selection of the wrong model number need to be corrected in the system so that the information in the NSTS is correct. A licensee would be able to submit a corrected form that contains the correct information online or through any other permitted reporting mechanism at any time.

D.4.5 For Manufacturers, Assigning a Unique Serial Number to Sources

The proposed rule would require manufacturers of nationally tracked sources to use a unique serial number for each source. The combination of manufacturer, model, and serial number will be used in the NSTS to track the history of each source.

D.5 Access to the Information in the NSTS and What Would It be Used For

Information in the NSTS will be considered Official Use Only. This means that the information is to be protected and not disclosed to the general public. A licensee would be able to view its own data, but not data for other licensees. Agreement State staff would be able to view information on the licensees in their State, but would not be able to view information on licensees in other States. The one exception is information related to lost or stolen sources. Agreement State staff would be able to view the information on lost or stolen sources from all licensees. This will enable better coordination of recovery efforts. Other Federal and State agencies would also be able to view the information on lost or stolen sources and other information on a need-to-know basis.

Once fully operational, the expanded NSTS would be used for a variety of purposes. This standardized, centralized information will help NRC and Agreement States to monitor the location and use of nationally tracked sources; conduct inspections and investigations; communicate nationally tracked source information to other government agencies; verify legitimate ownership and use of nationally tracked sources; and further analyze hazards attributable to the possession and use of these sources.

D.6 Implementation and Enforcement of the Expanded NSTS

Implementation and enforcement activities, whether the licensee population includes those possessing Category 1 and 2 sources only, or those possessing Category 3 sources or sources greater than or equal to 1/10 of Category 3, would be of a similar nature. The NSTS rule reporting requirements include reporting by licensees of an initial inventory, an annual reconciliation of source inventory, and source transactions. The implementation process would include specific actions to make the affected licensee population aware of the amended requirements in 10 CFR parts 20 and 32 through outreach with licensee groups/organizations, and information on the NRC Web site. In addition, at this time, guidance is in preparation for implementation of the NSTS for Category 1 and 2 licensees; similar guidance will be developed for Category 3 sources and sources greater than or equal to 1/10 of Category 3 licensees. Regarding enforcement action, in a manner similar to that for Category 1 and 2 licensees, NRC and the Agreement states would first need to identify licensees who had not reported the required inventory and transaction information, based on knowledge of the licensee population of interest, which would be determined by using the Licensee Tracking System and eventually by the Web Based Licensing (WBL), when operational.

D.7 When These Actions Become Effective

The rule would become effective 60 days after the final rule is published in the **Federal Register**. The requirements for sources greater than or equal to 1/10 of Category 3 nationally tracked sources would be implemented by July 31, 2009. This means that by this date any licensee that possesses a Category 3 or sources greater than or equal to 1/10 of Category 3 must have reported its initial inventory and report thereafter all transactions involving sources greater than or equal to 1/10 of Category 3 to the NSTS.

III. Discussion of Proposed Amendments by Section

Section 20.1003 Definitions

An expanded definition of nationally tracked sources to include Category 3 and 1/10 of Category 3 sources would be added to the regulations.

Section 20.2207 Reports of Transactions Involving Nationally Tracked Sources

A revision to paragraph (h) would require a licensee to report its initial inventory of Category 3 and 1/10 of Category 3 nationally tracked sources by July 31, 2009.

Appendix E Nationally Tracked Source Thresholds

A revision to Appendix E of 10 CFR Part 20 would be made to revise the thresholds for nationally tracked sources to include Category 3 and 1/10 of Category 3 levels. The Terabecquerel (TBq) values listed in the revised Appendix E are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The Ci values are provided for reference only and are rounded after conversion. The curie values are not intended to be the regulatory standard.

Section 32.2 Definitions

An expanded definition of nationally tracked sources to include Category 3 and 1/10 of Category 3 sources would be added to the regulations.

IV. Criminal Penalties

For the purpose of Section 223 of the Atomic Energy Act (AEA), as amended, the Commission is proposing to amend 10 CFR Parts 20 and 32 under one or more of Sections 161b, 161i, or 161o of the AEA. Willful violations of the rule would be subject to criminal enforcement.

V. Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), § 20.2207 of the proposed rule is classified as Compatibility Category ''B.'' The NRC program elements in this category are those that apply to activities that have direct and significant transboundary implications. An Agreement State should adopt program elements essentially identical to those of NRC. Agreement State and NRC licensees would report their transactions to the NSTS and the database will be maintained by the NRC.

VI. Plain Language

The Presidential Memorandum ''Plain Language in Government Writing'' published June 10, 1998 (63 FR 31883), directed that the Government's documents be in clear and accessible language. The NRC requests comments on this proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the **ADDRESSES** heading.

VII. Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC would require licensees that possess, manufacture, transfer, receive, or dispose of the nationally tracked sources specified in the proposed rule to report the information relating to such transactions to the National Source Tracking System. This action does not constitute the establishment of a standard that contains generally applicable requirements.

VIII. Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(3)(iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

IX. Paperwork Reduction Act Statement

This proposed rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule has been submitted to the Office of Management and Budget (OMB) for review and approval of the information collection requirements.

Type of submission, new or revision: Revision.

The title of the information collection: 10 CFR Parts 20 and 32, National Source Tracking of Sealed Sources.

The form number, if applicable: NRC Form 748.

How often the collection is required: Initially, at completion of a transaction, and at inventory reconciliation annually.

Who will be required or asked to report: Licensees that manufacture, receive, disassemble, transfer, or dispose of nationally tracked sources.

An estimate of the number of annual responses: 20,912 (19,746 responses and 1,166 recordkeepers).

The estimated number of annual respondents: 3500 (NRC 700; Agreement States 2800).

An estimate of the total number of hours needed annually to complete the requirement or request: The total burden increase for this rulemaking is 16,821 hours (10 CFR Part 20: 13,748 hours; 10 CFR Part 32: 600 hours; NRC Form 748: 2,473 hours).

Abstract: The NRC is proposing to amend its regulations to expand the NSTS to include Category 3 and 1/10 of Category 3 sealed sources. The proposed amendments would require licensees to report certain transactions involving nationally tracked sources to the NSTS. These transactions would include manufacture, transfer, disassembly, receipt, or disposal of the nationally tracked source. The proposed amendment would require each licensee to provide its initial inventory of nationally tracked sources to the NSTS and to annually verify and reconcile the information in the system with the licensee's actual inventory. The proposed rule would also require manufacturers of nationally tracked sources to assign a unique serial number of each source. This information collection is mandatory and will be used to populate the NSTS.

The NRC is seeking public comment on the potential impact of the information collections contained in this proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?

2. Is the estimate of burden accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

A copy of the OMB clearance package may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. The OMB clearance package and rule are available at the NRC Worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html* for 60 days after the signature date of this notice.

Send comments on any aspect of these proposed information collections,

including suggestions for reducing the burden and on the above issues, by May 12, 2008 to the Records and FOIA/Privacy Services Branch (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail to *INFOCOLLECTS@NRC.GOV* and to the Desk Officer, Nathan Frey, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0001, 3150–0014, 3150–0202), Office of Management and Budget, Washington, DC 20503. Comments on the proposed information collections may also be submitted via the Federal eRulemaking Portal *http://www.regulations.gov,* docket # NRC–2008–0200. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. You may also comment by telephone at (202) 395–7345.

X. Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

XI. Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission.

The Regulatory Analysis considers costs to licensees that would result from the proposed amendments. The largest burden would likely fall on the manufacturers and distributors of nationally tracked sources because they will have the most transactions to report. The NRC believes that by allowing batch loading of information using a computer readable format, the burden on the high transaction licensees will be lessened. The Regulatory Analysis also considers costs to the NRC and to Agreement States, including initial costs of entering licensees into the NSTS, annual costs of maintenance and operation of the expanded NSTS, costs of inspections, and costs to Agreement States of issuing legally binding requirements.

The Commission requests public comment on the draft regulatory analysis. Comments may be submitted to the NRC as indicated under the **ADDRESSES** heading. The analysis is available for inspection in the NRC Public Document Room (Adams Accession Number ML080910314), 11555 Rockville Pike, Rockville, MD 20852. Single copies of the draft regulatory analysis are available from Michael Williamson, telephone (301) 415–6284, e-mail *mkw1@nrc.gov,* of the Office of Federal and State Materials and Environmental Management Programs.

XII. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule would affect about 700 NRC licensees and an additional 2800 Agreement State licensees possessing Category 3 and 1/10 of Category 3 sources. Affected licensees include laboratories, reactors, universities, colleges, medical clinics, hospitals, irradiators, and radiographers, some of which may qualify as small business entities as defined by 10 CFR 2.810. However, the proposed rule is not expected to have a significant economic impact on these licensees.

The total time required by a licensee to complete each National Source Tracking Transaction report depends on the number of sources involved in the transaction and the method of reporting. No research or compilation is necessary as all information is transcribed from bills of lading, in-house records kept for other purposes, sales agreements, etc. Each licensee would also spend time on an annual reconciliation of their inventory with the NSTS. As discussed in Section XI of this preamble, the draft regulatory analysis conducted for this action estimates the one-time and annual costs of the proposed amendments for affected licensees based on estimated burdens for actions to comply with the proposed amendments. The NRC believes that the selected alternative reflected in the proposed amendment is the least burdensome, most flexible alternative that would accomplish the NRC's regulatory objective.

Because of the widely differing conditions under which impacted licensees operate, the NRC is specifically requesting public comment from licensees concerning the impact of the proposed regulation. The NRC particularly desires comment from licensees who qualify as small businesses, specifically as to how the proposed regulation will affect them and how the regulation may be tiered or otherwise modified to impose less stringent requirements on small entities while still adequately protecting the public health and safety. Comments on how the regulation could be modified to take into account the differing needs of small entities should specifically discuss:

(1) The size of the business and how the proposed regulation would result in a significant economic burden upon it as compared to a larger organization in the same business community;

(2) How the proposed regulation could be further modified to take into account the business's differing needs or capabilities;

(3) The benefits that would accrue, or the detriments that would be avoided, if the proposed regulation was modified as suggested by the commenter;

(4) How the proposed regulation, as modified, would more closely equalize the impact of NRC regulations as opposed to providing special advantages to any individuals or groups; and

(5) How the proposed regulation, as modified, would still adequately protect the public health and safety.

Comments should be submitted as indicated under the **ADDRESSES** heading.

XIII. Backfit Analysis

The NRC has determined that the backfit rule (§§ 50.109, 70.76, 72.62, or 76.76) does not apply to this proposed rule because this amendment would not involve any provisions that would impose backfits as defined in the backfit rule. Therefore, a backfit analysis is not required.

List of Subjects

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR Parts 20 and 32.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

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

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936,

937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2297f), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Sec. 651(e), Pub. L. 109–58, 119 Stat. 806—810 (42 U.S.C. 2014, 2021, 2021b, 2111).

2. In § 20.1003, the definition *nationally tracked source* is revised to read as follows:

§ 20.1003 Definitions.

* * * * *

Nationally tracked source is a sealed source containing a quantity equal to or greater than Category 1, Category 2, Category 3, or 1/10 of Category 3 levels of any radioactive material listed in Appendix E of this Part. In this context a sealed source is defined as radioactive material that is sealed in a capsule or closely bonded, in a solid form and which is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold. Category 3 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 3 threshold but less than the Category 2 threshold. The 1/10 of Category 3 nationally tracked sources are those containing radioactive material at a quantity greater than or equal to 1/10 of Category 3 threshold but less than the Category 3 threshold.

* * * * *

3. In § 20.2207, paragraph (h) is revised to read as follows:

§ 20.2207 Reports of transactions involving nationally tracked sources.

* * * * *

(h) Each licensee that possesses Category 1 nationally tracked sources shall report its initial inventory of Category 1 nationally tracked sources to the National Source Tracking System by January 31, 2009. Each licensee that possesses Category 2 nationally tracked sources shall report its initial inventory of Category 2 nationally tracked sources to the National Source Tracking System by January 31, 2009. Each licensee that possesses Category 3 or 1/10 of Category 3 nationally tracked sources shall report its initial inventory of Category 3 or 1/10 of Category 3 nationally tracked sources to the National Source Tracking System by July 31, 2009. The information may be submitted by using any of the methods identified by paragraphs (f)(1) through (f)(4) of this section. The initial inventory report must include the following information:

(1) The name, address, and license number of the reporting licensee;

(2) The name of the individual preparing the report;

(3) The manufacturer, model, and serial number of each nationally tracked source or, if not available, other information to uniquely identify the source;

(4) The radioactive material in the sealed source;

(5) The initial or current source strength in becquerels (curies); and

(6) The date for which the source strength is reported.

4. In Part 20, Appendix E is revised to read as follows:

Appendix E to Part 20—Nationally Tracked Source Thresholds

The Terabecquerel (TBq) values are the regulatory standard as promulgated by the International Atomic Energy Agency for Categories 1–3 of its *Code of Conduct on the Safety and Security of Radioactive Sources*, published in January 2004. The curie (Ci) values specified are obtained by converting the TBq value. The curie values are provided for practical usefulness only.

Radioactive material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)	Category 3 (TBq)	Category 3 (Ci)	1/10 of Category 3 (TBq)	1/10 of Category 3 (Ci)
Actinium–227	20	540	0.2	5.4	.02	0.54	0.002	0.054
Americium–241	60	1,600	0.6	16	0.06	1.6	0.006	0.16
Americium–241/Be	60	1,600	0.6	16	0.06	1.6	0.006	0.16
Californium–252	20	540	0.2	5.4	0.02	0.54	0.002	0.054
Cobalt–60	30	810	0.3	8.1	0.03	0.81	0.003	0.081
Curium–244	50	1,400	0.5	14	0.05	1.4	0.005	0.14
Cesium–137	100	2,700	1	27	0.01	2.7	0.001	0.27
Gadolinium–153	1,000	27,000	10	270	1	27	0.1	2.7
Iridium–192	80	2,200	0.8	22	0.08	2.2	0.008	0.22
Plutonium–238	60	1,600	0.6	16	0.06	1.6	0.006	0.16
Plutonium–239/Be	60	1,600	0.6	16	0.06	1.6	0.006	0.16
Polonium–210	60	1,600	0.6	16	0.06	1.6	0.006	0.16
Promethium–147	40,000	1,100,000	400	11,000	40	1100	4	110
Radium–226	40	1,100	0.4	11	0.04	1.1	0.004	0.11
Selenium–75	200	5,400	2	54	0.02	5.4	0.002	0.54
Strontium–90	1,000	27,000	10	270	1	27	0.10	2.7
Thorium–228	20	540	0.2	5.4	0.02	0.54	0.002	0.054
Thorium–229	20	540	0.2	5.4	0.02	0.54	0.002	0.054
Thulium–170	20,000	540,000	200	5,400	20	540	2	54
Ytterbium–169	300	8,100	3	81	0.03	8.1	0.003	0.81

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

5. The authority citation for Part 32 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

6. In § 32.2, the definition *nationally tracked source* is revised to read as follows:

§ 32.2 Definitions.

* * * * *

Nationally tracked source is a sealed source containing a quantity equal to or greater than Category 1, 2, 3, or 1/10 of Category 3 levels of any radioactive material listed in Appendix E to 10 CFR Part 20. In this context a sealed source

is defined as radioactive material that is permanently sealed in a capsule or closely bonded, in a solid form and which is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold. Category 3 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 3 threshold but less than the Category 2 threshold. Category 1/10 of Category 3 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the 1/10 of Category 3 threshold but less than the Category 3 threshold.

Dated at Rockville, Maryland, this 7th day of April 2008.

For the U.S. Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E8–7756 Filed 4–10–08; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 820

RIN 1990–AA30

Procedural Rules for DOE Nuclear Activities

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) is proposing to amend its Procedural Rules for DOE Nuclear Activities to be consistent with section 610 of the Energy Policy Act of 2005, Public Law 109–58 (EPAct 2005), signed into law by President Bush on August 8, 2005. Section 610 amends provisions in section 234A. of the Atomic Energy Act of 1954 (AEA) concerning civil penalties with respect to certain DOE contractors, subcontractors and suppliers. This proposed rule would revise DOE's regulations to be consistent with the changes made by section 610.

DATES: Public comments on this proposed rule will be accepted until May 27, 2008.

ADDRESSES: You may submit comments, identified by RIN 1990–AA30, by any of the following methods:

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

E-mail: Martha.Thompson@hq.doe.gov.

Mail: Martha Thompson, Deputy Director, (HS–40), Office of Enforcement, Office of Health, Safety and Security, U.S. Department of Energy, 20300 Century Blvd., Germantown, Maryland 20874.

You may obtain copies of comments received by DOE from the Office of Health, Safety and Security Web site: *http://www.hss.energy.gov/Enforce/* or by contacting Martha Thompson of the Office of Enforcement.

FOR FURTHER INFORMATION CONTACT: Sophia Angelini, Attorney-Advisor (GC–52), Office of the General Counsel, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6975; or Martha Thompson, Deputy Director (HS–40), Office of Enforcement, Office of Health, Safety and Security, U.S. Department of Energy, 20300 Century Blvd., Germantown, Maryland 20874, (301) 903–5018 or by e-mail, *martha.thompson@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of the Proposed Rule
III. Public Comment Procedures
IV. Regulatory Review

I. Background

In 1988, Congress amended the Atomic Energy Act of 1954 (AEA) (42 U.S.C. 2011 *et seq.*) by adding section 234A. (commonly referred to as the Price-Anderson Act) (42 U.S.C. 2282a.) that establishes a system of civil penalties for DOE contractors, subcontractors, and suppliers that are covered by an indemnification agreement under section 170d. of the AEA (42 U.S.C. 2210d.). The civil penalties cover DOE contractors, subcontractors and suppliers that violate, or whose employees violate, any applicable rule, regulation or order related to nuclear safety issued by the Secretary of Energy. Section 234A. specifically exempted seven institutions (and any subcontractors or suppliers thereto) from such civil penalties and directed the Secretary of Energy to determine by rule whether nonprofit educational institutions should receive automatic remission of any penalty. On August 17, 1993, DOE promulgated ''Procedural Rules for DOE Nuclear Activities,'' codified at 10 CFR Part 820 (Part 820), to provide for the enforcement under section 234A. of the AEA of DOE nuclear safety requirements. Under Part 820, the exemption provision for the seven institutions is set forth in section 820.20(c); the provision for an automatic remission of civil penalties for ''nonprofit educational institutions'' is in section 820.20(d).

DOE is proposing to amend subpart B of Part 820 to incorporate the changes required by section 610 of EPAct 2005. Section 610, entitled ''Civil Penalties,'' amended section 234A. of the AEA by:

(1) Repealing the automatic remission of civil penalties by striking the last sentence of subsection 234A.b.(2) which reads: ''In implementing this section, the Secretary shall determine by rule whether nonprofit educational institutions should receive automatic remission of any penalty under this section.'';

(2) Deleting exemptions provided to seven institutions (including their subcontractors and suppliers) for activities at certain facilities by deleting existing subsection 234A.d. and substituting a new subsection 234A.d.(1) in which the total amount of civil penalties for violations under subsection 234A.a. of the AEA by any not-for-profit contractor, subcontractor, or supplier may not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under the contract; and

(3) Adding a new section 234A.d.(2) that defines the term ''not-for-profit'' to mean that ''no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.''

Finally, section 610 of EPAct 2005 included an effective date provision at subsection 234A.c., specifying that the amendments as to civil penalties under section 234A. shall not apply to any violation of the AEA occurring under a contract entered into before the date of enactment of EPAct 2005, which was August 8, 2005.

II. Discussion of the Proposed Rule

Today's proposed rule would amend section 820.20 as follows:

(1) It would revise paragraph (c) to limit the exemption for seven institutions (and their subcontractors and suppliers) from the civil penalty provisions of Part 820 to violations occurring under contracts entered into before the date of enactment of EPAct 2005;

(2) It would revise paragraph (d) to limit the automatic remission of civil penalties for nonprofit educational institutions under Part 820 to violations

occurring under contracts entered into before the date of enactment of EPAct 2005;

(3) It would add a new paragraph (e) to provide that, with respect to any violation occurring under a contract entered into on or after the date of enactment of EPAct 2005, the total amount of civil penalties paid under Part 820 by any not-for-profit contractor, subcontractor, or supplier may not exceed the total amount of fees paid within the fiscal year in which the violation occurs; and

(4) It would add a new paragraph (f) to provide that a not-for-profit contractor, subcontractor, or supplier is one for which no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.

To summarize, for contracts entered into with the DOE on or after August 8, 2005, all contractors, subcontractors and suppliers would be subject to civil penalties for violations of nuclear safety regulations; however, not-for-profit contractors, subcontractors and suppliers could not be assessed any such penalties greater than the total amount of fees paid to them within the fiscal year in which the violation occurs. For contracts entered into with DOE prior to August 8, 2005, the provisions of section 820.20 pertaining to the exemption from civil penalties for the seven institutions (including their subcontractors and suppliers) and the automatic remission of any civil penalties for nonprofit educational institutions would remain unchanged.

DOE's proposed amendments to section 820.20 are intended to effectuate section 610 of EPAct 2005. The following aspects of today's proposal are discussed to facilitate a better understanding of the proposed amendments and their implementation.

1. When a Contract Is ''Entered Into'' for Purposes of Section 820.20

In many cases, it is a simple matter to determine when a contract is entered into: this occurs when the contractor and the DOE contracting officer have both signed and executed the contract. Further, for purposes of section 820.20, DOE proposes to consider that contractual arrangements between the DOE contractor and its subcontractors and suppliers relate back to the date on which the contract was entered into between the prime contractor and DOE.

In some cases, however, a contract may include an option for renewal of the contract beyond the base period or DOE may decide to extend the contract, raising a question as to when the contract is ''entered into.'' In a case where a contract was competed with an option to renew, DOE proposes that, if it exercises its option, the contract retains the same ''entered into'' date as the initially competed contract for purposes of section 820.20. In a case where DOE decides to extend a contract pursuant to the applicable provisions of the Federal Acquisition Regulation and the Department of Energy Acquisition Regulation (such as a management and operating contract that does not contain a competitively awarded option clause), DOE proposes to consider the contract ''entered into'' as of the date of execution of the extended contract, not the initial contract, for purposes of section 820.20. Applying this definition of when a contract is ''entered into,'' the only institution of the seven institutions that is still exempted from civil penalties under section 234A. of the AEA is the University of California for operation of the Lawrence Berkeley National Laboratory. The University of California was awarded the contract to continue to operate the Lawrence Berkeley National Laboratory following a competition. The contract was entered into and performance of work under this new contract began on June 1, 2005.

2. What Subcontractors and Suppliers are Entitled to the Exemption From Civil Penalties

Prior to the passage of EPAct 2005, each of seven institutions ''and any subcontractors or suppliers thereto,'' even if they were for-profit subcontractors or suppliers, were exempted from civil penalties under section 234A.d. of the AEA. In contrast, amended section 234A.d.(1) provides a cap on civil penalties only ''in the case of any not-for-profit contractor, subcontractor, or supplier.'' In sum, under prior law any subcontractor or supplier entity associated with one of the seven institutions under contract to the Department was entitled to the exemption from civil penalties to the same extent as the institution for which it was a subcontractor or supplier. Under current law, each contractor, subcontractor, or supplier must itself qualify as a ''not-for-profit,'' as defined at section 234A.d.(2), in order to qualify for the limitation on civil penalties; the exemption from civil penalties continues to apply in the limited case of any subcontractor or supplier to one of the seven institutions (prime contractor) that currently is under a contract with DOE that was entered into before August 8, 2005.

DOE considers that contractual arrangements between a DOE contractor and its subcontractors and suppliers relate back to the date on which the contract was ''entered into'' between the prime contractor and DOE. To further clarify, there are at present three potential categories of subcontractors and suppliers with entitlement, or lack of entitlement, to the exemption from civil penalties under the new statutory scheme as described herein.

First, there are subcontractors and suppliers that retain the entitlement to the exemption from civil penalties for violations occurring under contracts with DOE entered into prior to August 8, 2005, because they were under subcontract with one of the seven institutions at section 234A.d.(1) through (7) of the AEA before August 8, 2005, and they remain under those same subcontracts. As noted above, there is only one of the seven institutions that has a contract with DOE that was entered into prior to August 8, 2005—the University of California for the operation of the Lawrence Berkeley National Laboratory. Accordingly, only subcontractors and suppliers of the University of California performing activities associated with the Lawrence Berkeley National Laboratory, even if they are for-profit entities, retain the entitlement to exemption from civil penalties while under this prime contract.

Second, there are cases where subcontractors and suppliers entered into their subcontracts with one of the seven institutions before August 8, 2005, and, although one of the seven institutions is no longer the prime contractor, the subcontractor or supplier is continuing the same work under the same subcontract. In this case, DOE does not consider the subcontractor or supplier to be entitled to the exemption from civil penalties, as they are no longer under contract with one of the seven institutions named at section 234A.d.(1) through (7) of the AEA.

The third category of subcontractors and suppliers are those that entered into subcontracts with a prime contractor to DOE on or after August 8, 2005. Those subcontractors and suppliers are not entitled to the exemption for civil penalties. They may be entitled to the cap or limitation on civil penalties under the new law if, and only if, they individually qualify as a ''not-for-profit'' institution as defined at section 234A.d.(2).

3. How DOE Would Determine the ''1-Year Period'' To Calculate the Limitation on Civil Penalties for Not-For-Profit Entities

Section 610 of EPAct 2005 provides that, for violations of nuclear safety requirements occurring under a contract

entered into on or after August 8, 2005, any civil penalty assessed against a not-for-profit contractor, subcontractor, or supplier must be capped at the total amount of fees paid within any 1-year period (as determined by the Secretary of Energy) under the contract under which the violation occurs. There are several ways in which DOE could determine what constitutes the relevant ''1-year period.'' This could be interpreted as the fees paid in the 1-year period from the date of contract award, or the fees paid during the calendar year, or the fees paid during the fiscal year. DOE proposes, consistent with other DOE regulations (e.g., 10 CFR 851.5 (d)), to interpret ''the total amount of fees paid within any 1-year period'' as the total amount of fees paid by DOE to the ''not-for-profit'' entity in the U.S. Government fiscal year (i.e., October 1 through September 30) during which the violation(s) occurs for which a civil penalty is assessed.

4. How DOE Would Determine the ''Total Amount of Fees Paid'' To Calculate the Limitation on Civil Penalties for Not-For-Profit Entities

There are different ways in which DOE could determine what constitutes the ''total amount of fees paid'' to a not-for-profit contractor within the 1-year period discussed in section 3. For example, the total fees paid under section 820.20(e) could be calculated exclusive of any civil penalties, reduction in fees, or subsequent adjustments to fee that might be imposed on the contractor under this or other regulations, such as those involving violations of DOE regulations relating to classified information security, codified at 10 CFR Part 824, or worker safety and health, codified at 10 CFR Part 851. Alternatively, the total fees paid could be calculated inclusive of any civil penalties, reduction in fees, or subsequent adjustments to fee, that might be imposed on the contractor under this or other regulations. In other words, DOE must determine whether the ''total amount of fees paid'' should reflect the fee the contractor earns in the 1-year period based on its performance of the contract work scope with or without any penalties, reductions in fee, or subsequent adjustments to fee.

Current DOE standard contract clauses that address fee reductions for non-compliance with applicable regulations (e.g., 48 CFR 952.204–76, ''Conditional payment of fee or profit—safeguarding restricted data and other classified information'' and 48 CFR 952.223–77, ''Conditional payment of fee or profit—protection of worker safety and health'') provide that ''[u]nder this clause, the total amount of fee or profit that is subject to reduction made in combination with any reduction made under any other clause in the contract that provides for a reduction to the fee or profit, shall not exceed the amount of fee or profit that is earned by the contractor in the period established pursuant to paragraph (b)(2)(I) of this clause [the paragraph dealing with performance periods].'' In effect, reductions assessed against a contractor's fee are treated cumulatively so that the total fee reductions taken in a performance period do not exceed the amount of fee which the contractor has earned during that period. This provision ensures that the not-for-profit contractor never faces a situation in which a fee reduction could exceed the actual amount of fee that it ultimately receives in a performance period. Although civil penalties are not assessed under a contract provision, DOE believes that they are conceptually similar to fee reductions and that it is appropriate to treat them in the same manner.

A cumulative calculation is consistent with the intent of section 610 of EPAct 2005 to limit civil penalties to a not-for-profit entity to the amount it earned under the contract for the performance period, such that the assets of the not-for-profit are not affected or depleted beyond the fee that it earns under the contract. Consistent with this Congressional intent and other DOE regulations, the Department proposes to calculate the ''total amount of fees paid'' to a not-for-profit entity based on a cumulative calculation that takes into account any reductions in fee, civil penalties (including civil penalties under this regulation), or subsequent adjustment to fees paid. In the case of any subsequent adjustments to fee (i.e., any adjustments to fee that are taken after the fee has been paid), DOE would reassess the penalty amount consistent with the subsequent change in the fee paid. This reassessment would be necessary to ensure that the not-for-profit entity does not pay more in civil penalties than the fee paid in a 1-year performance period.

5. Repeal of the Automatic Remission of Civil Penalties

Section 610 of EPAct 2005 includes a provision, entitled ''Repeal of Automatic Remission,'' that eliminates from section 234A.b.(2) of the AEA the sentence that directed the Secretary to determine by rule whether nonprofit educational institutions should receive automatic remission of any civil monetary penalty for violations of DOE nuclear safety regulations. DOE interprets this amendment as repealing DOE's authority to grant an automatic remission of any civil penalty payments for ''nonprofit educational institutions'' considered ''nonprofit'' under the United States Internal Revenue Code. In addition to the title of section 610(a), (''Repeal of Automatic Remission''), the amendments to section 234A. reveal a clear intent to repeal DOE's authority to grant automatic remission of civil penalties under this section. Congress removed the exemption for the seven institutions and, thus, subjected all contractors (including their subcontractors and suppliers) to civil penalties, and capped the total amount of civil penalties paid by any ''not-for-profit'' contractor at the total amount of fees paid within a 1-year period. Because automatic remission of civil penalties would be inconsistent with this amended statutory scheme, DOE interprets the amendment striking the last sentence in section 234A.b.(2) of the AEA to be a repeal of DOE's authority to provide automatic remission of civil penalties under the statute. Accordingly, DOE proposes to revise section 820.20 to eliminate the provision for automatic remission of civil penalties for contracts entered into on or after August 8, 2005.

6. A ''Not-For-Profit'' Contractor Under the Section 610 of EPAct 2005 is not the Same as a ''Nonprofit Educational Institution''

Section 610 of EPAct 2005 amends section 234A.d. of the AEA to define ''not-for-profit'' to mean that no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person. DOE proposes to adopt that definition in a new paragraph (f) of the amended section 820.20 for violations occurring under contracts entered into on or after August 8, 2005. DOE notes that the definition of a ''not-for-profit'' contractor in EPAct 2005 is different from the definition of ''nonprofit educational institutions'' in the current section 820.20(d) (i.e., any educational institution that is considered nonprofit under the United States Internal Revenue Code). Consequently, under today's proposed rule a contractor, subcontractor and supplier previously entitled to an automatic remission of civil penalties if qualified as a ''nonprofit educational institution'' under section 820.20(d) may or may not qualify as a ''not-for-profit'' contractor, subcontractor or supplier for purposes of the limitation on civil penalties provision under the proposed section 820.20(f).

III. Public Comment Procedures

Interested persons are invited to participate in this proceeding by submitting data, views, or arguments. Written comments should be submitted to the address, and in the form, indicated in the **ADDRESSES** section of this notice of proposed rulemaking. To help DOE review the comments, interested persons are asked to refer to specific proposed rule provisions, if possible.

If you submit information that you believe to be exempt by law from public disclosure, you should submit one complete copy, as well as one copy from which the information claimed to be exempt by law from public disclosure has been deleted. DOE is responsible for the final determination with regard to disclosure or nondisclosure of the information and for treating it accordingly under the DOE Freedom of Information regulations at 10 CFR 1004.11.

DOE has determined that this rulemaking does not raise the kinds of substantial issues or impacts that, pursuant to 42 U.S.C. 7191, would require DOE to provide an opportunity for oral presentation of views, data and arguments. Therefore, DOE has not scheduled a public hearing on these proposed amendments to Part 820.

IV. Regulatory Review

A. Executive Order 12866

This notice of proposed rulemaking has been determined to not be a significant regulatory action under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this notice of proposed rulemaking was not subject to review by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (68 FR 7990). DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://www.gc.doe.gov.*

DOE has reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. The proposed rule would amend DOE's Procedural Rules for DOE Nuclear Activities to incorporate statutory changes made by EPAct 2005. The proposed amendments to section 820.20 are changes required to conform DOE's regulations to the new statutory provisions. The changes affect the seven institutions named in AEA section 234A.d. prior to amendment, which are not small entities, and their subcontractors and suppliers, which may or may not be small entities. While the amended Part 820 would expose small entities that are subcontractors and suppliers to potential liability for civil penalties, DOE does not expect that a substantial number of these entities will violate a DOE nuclear safety requirement, a DOE Compliance Order, or a DOE nuclear safety program, plan, or other provision, resulting in the imposition of a civil penalty. On the basis of the foregoing, DOE certifies that today's proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b).

C. Paperwork Reduction Act

This proposed rule would not impose new information or record keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

D. National Environmental Policy Act

DOE has determined that this proposed rule is covered under the Categorical Exclusion in DOE's National Environmental Policy Act regulations at paragraph A.5 of Appendix A to Subpart D, 10 CFR Part 1021, which applies to rulemaking that interprets or amends an existing rule or regulation without changing the environmental effect of the rule or regulation that is being amended. The proposed rule would amend DOE's regulations on civil penalties with respect to certain DOE contractors, subcontractors and suppliers in order to incorporate changes made to the AEA by section 610 of EPAct 2005. These proposed amendments are procedural and would not change the environmental effect of section 820.20. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, and tribal governments. Subsection 101(5) of title I of that law defines a Federal intergovernmental mandate to include any regulation that would impose upon State, local, or tribal governments an enforceable duty, except a condition of Federal assistance or a duty arising from participating in a voluntary federal program. Section 201 of title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments, in the aggregate, or to the private sector, ''*other than to the extent that such regulations incorporate requirements specifically set forth in law*'' (2 U.S.C. 1531, emphasis added). Section 202 of that title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to State, local, or tribal governments, or to the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year (2 U.S.C. 1532). Section 204 of that title requires each agency that proposes a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of State, local, and tribal governments (2 U.S.C. 1534).

This proposed rule merely incorporates requirements specifically set forth in section 610 of EPAct 2005 and, thus, is exempt from the requirement to assess the effects of a Federal regulatory action on State, local, and tribal governments (2 U.S.C. 1531).

F. Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well being. While this proposed rule would apply to individuals who may be members of a family, the rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it

is not necessary to prepare a Family Policymaking Assessment.

G. Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined this proposed rule and has determined that it would not preempt State law and 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. No further action is required by Executive Order 13132.

H. Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

I. Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

J. Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA) a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action has been determined to not be a significant regulatory action, and it would not have an adverse effect on the supply, distribution, or use of energy. Thus, today's action is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Approval of the Office of the Secretary

The Secretary of Energy has approved the publication of this proposed rule.

List of Subjects in 10 CFR Part 820

Administrative practice and procedure, Government contracts, Penalties, Radiation protection.

Glenn S. Podonsky,

Chief Health, Safety and Security Officer, Office of Health, Safety and Security.

For the reasons stated in the preamble, DOE hereby proposes to amend Chapter III of title 10 of the Code of Federal Regulations as set forth below:

PART 820—PROCEDURAL RULES FOR DOE NUCLEAR ACTIVITIES

1. The authority citation for part 820 continues to read as follows:

Authority: 42 U.S.C. 2201; 2282(a); 7191; 28 U.S.C. 2461 note; 50 U.S.C. 2410.

2. Section 820.20 is amended by revising paragraphs (c) and (d) and by adding new paragraphs (e) and (f) to read as follows:

§ 820.20 Purpose and scope.

* * * * *

(c) *Exemptions.* With respect to a violation occurring under a contract entered into before August 8, 2005, the following contractors, and subcontractors and suppliers to that prime contract only, are exempt from the assessment of civil penalties under this subpart with respect to the activities specified below:

(1) The University of Chicago for activities associated with Argonne National Laboratory;

(2) The University of California for activities associated with Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Lawrence Berkeley National Laboratory;

(3) American Telephone and Telegraph Company and its subsidiaries for activities associated with Sandia National Laboratories;

(4) University Research Association, Inc. for activities associated with FERMI National Laboratory;

(5) Princeton University for activities associated with Princeton Plasma Physics Laboratory;

(6) The Associated Universities, Inc. for activities associated with the Brookhaven National Laboratory; and

(7) Battelle Memorial Institute for activities associated with Pacific Northwest Laboratory.

(d) *Nonprofit educational institutions.* With respect to a violation occurring under a contract entered into before August 8, 2005, any educational institution that is considered nonprofit under the United States Internal Revenue Code shall receive automatic

remission of any civil penalty assessed under this part.

(e) *Limitation for not-for-profits.* With respect to any violation occurring under a contract entered into on or after August 8, 2005, in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under this part may not exceed the total amount of fees paid by DOE to that entity within the U.S. Government fiscal year in which the violation occurs.

(f) *Not-for-profit.* For purposes of this part, a ''not-for-profit'' contractor, subcontractor, or supplier is one for which no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.

[FR Doc. E8–7763 Filed 4–10–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0426; Directorate Identifier 2008–CE–016–AD]

RIN 2120–AA64

Airworthiness Directives; MORAVAN a.s. Model Z–143L Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

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

Vortex inserts are used inside the heat exchanger of the carburettor heating system. Up to serial number (s/n) 0044 inclusive those inserts have been produced from aluminium alloy which has been found to be susceptible of cracks. As a consequence, if left uncorrected some loose parts could migrate in the induction system, reduce the air flow through the carburettor's venturi and lead to a loss of engine power.

From s/n 0045 onwards vortex inserts have been produced from stainless steel.

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 May 12, 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.

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: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0426; Directorate Identifier 2008–CE–016–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 European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No. 2008–0038, dated February 27, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Vortex inserts are used inside the heat exchanger of the carburettor heating system. Up to serial number (s/n) 0044 inclusive those inserts have been produced from aluminium alloy which has been found to be susceptible of cracks. As a consequence, if left uncorrected some loose parts could migrate in the induction system, reduce the air flow through the carburettor's venturi and lead to a loss of engine power.

From s/n 0045 onwards vortex inserts have been produced from stainless steel.

To address this unsafe condition, this Airworthiness Directive (AD) mandates initial inspections of the heat exchanger vortex inserts and replacement of the aluminium inserts by stainless steel ones if any damage is found; and recurrent inspections to be done as incorporated in the Revision of Airplane Maintenance Manual.

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

Relevant Service Information

Moravan Aviation s.r.o. has issued Mandatory Service Bulletin Z143L/31a, dated June 8, 2007, and new pages 01–35, 05–28, 75–7, 75–7A, 75–7B, and 75–8 of ZLIN Z 143 L Airplane Maintenance Manual, Revision No. 9, dated: June 8, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

provided in the MCAI and related service information.

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

Costs of Compliance

We estimate that this proposed AD will affect 7 products of U.S. registry. We also estimate that it would take about 6 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $100 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $4,060, or $580 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:

Moravan a.s.: Docket No. FAA–2008–0426; Directorate Identifier 2008–CE–016–AD.

Comments Due Date

(a) We must receive comments by May 12, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model Z–143L airplanes, all serial numbers (SNs), certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 75: Engine Air.

Reason

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

Vortex inserts are used inside the heat exchanger of the carburettor heating system. Up to serial number (s/n) 0044 inclusive those inserts have been produced from aluminium alloy which has been found to be susceptible of cracks. As a consequence, if left uncorrected some loose parts could migrate in the induction system, reduce the air flow through the carburettor's venturi and lead to a loss of engine power.

From s/n 0045 onwards vortex inserts have been produced from stainless steel.

To address this unsafe condition, this Airworthiness Directive (AD) mandates initial inspections of the heat exchanger vortex inserts and replacement of the aluminium inserts by stainless steel ones if any damage is found; and recurrent inspections to be done as incorporated in the Revision of Airplane Maintenance Manual.

Actions and Compliance

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

(1) *For all serial numbers (SNs) through SN 0044:*

(i) Before further flight after the effective date of this AD, inspect the vortex inserts inside the carburetor heating system heat exchanger for cracks and/or loose or missing rivets following paragraph 8 of Moravan Aviation s.r.o. Mandatory Service Bulletin Z143L/31a, dated June 8, 2007.

(ii) Before further flight, if as a result of the inspection required by paragraph (f)(1)(i) of this AD, you find any cracks and/or loose or missing rivets for the vortex inserts, replace all vortex inserts with new vortex inserts made from stainless steel following paragraph 8 of Moravan Aviation s.r.o. Mandatory Service Bulletin Z143L/31a, dated June 8, 2007.

(2) *For SN 0045 and greater:* Within 110 hours time-in-service (TIS) after the effective date of this AD or within 60 days after the effective date of this AD, whichever occurs first, inspect the vortex inserts inside the carburetor heating system heat exchanger following new instructions introduced by new pages 05–28, 75–7, 75–7A, and 75–8 of ZLIN Z 143 L Airplane Maintenance Manual, Revision No. 9, dated: June 8, 2007.

(3) *For all SNs:* Within 60 days after the effective date of this AD, incorporate new pages 01–11, 01–12, 01–24, 01–35, 05–28, 75–7, 75–7A, 75–7B, and 75–8 of ZLIN Z 143 L Airplane Maintenance Manual, Revision No. 9, dated: June 8, 2007, into your maintenance program. These pages include compliance times and procedures for repetitive inspections.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: The MCAI requires compliance for the inspection of SN 0045 and greater at the next shop visit or within 110 hours TIS after the effective date of this AD. To assure the AD is clear for U.S. operators and all airplanes have the inspection done in a timely manner, this AD requires compliance for the inspection of SN 0045 and greater within 110 hours TIS after the effective date of this AD or within 60 days after the effective date of this AD, whichever occurs first.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they

are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2008–0038, dated February 27, 2008; Moravan Aviation s.r.o. Mandatory Service Bulletin Z143L/31a, dated June 8, 2007; and new pages 01–11, 01–12, 01–24, 01–35, 05–28, 75–7, 75–7A, 75–7B, and 75–8 of ZLIN Z 143 L Airplane Maintenance Manual, Revision No. 9, dated: June 8, 2007, for related information.

Issued in Kansas City, Missouri, on April 3, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7654 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0409; Directorate Identifier 2007–NM–265–AD]

RIN 2120–AA64

Airworthiness Directives; ATR Model ATR42 Airplanes and Model ATR72–101, –102, –201, –202, –211, and –212 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:

It has been found on in-service aircraft that some aileron tab bellcrank assemblies were not in accordance with the definition drawings.

The main item concerned is the retainer Part Number S2711004620000, which has been manufactured with a hole larger than it should be, or redrilled out of limits.

The function of the retainer is to maintain the spacer in position in case of rupture or loss of the bolt which links the tab control rod to the bellcrank assembly. If the diameter of the retainer hole is out of limit, the retainer function is lost and fail-safe installation is no longer ensured. This condition, if not corrected, could lead to loss of the aileron tab bellcrank functionality, resulting in diminished control of the aircraft.

* * * * * * *

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 May 12, 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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

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–2008–0409; Directorate Identifier 2007–NM–265–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

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2006–0376, dated December 19, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

It has been found on in-service aircraft that some aileron tab bellcrank assemblies were not in accordance with the definition drawings.

The main item concerned is the retainer Part Number S2711004620000, which has been manufactured with a hole larger than it should be, or redrilled out of limits.

The function of the retainer is to maintain the spacer in position in case of rupture or loss of the bolt which links the tab control rod to the bellcrank assembly. If the diameter of the retainer hole is out of limit, the retainer function is lost and fail-safe installation is no longer ensured. This condition, if not corrected, could lead to loss of the aileron tab bellcrank functionality, resulting in diminished control of the aircraft.

For the reasons stated above, this Airworthiness Directive (AD) requires the inspection [for proper hole diameter] of the aileron tab bellcrank retainer and, if necessary, the restoration of a proper installation [replacing any retainer which does not meet specified limits with a new retainer].

Corrective actions also include doing a general visual inspection (GVI) for discrepancies (corrosion, deformation, scratches, or other defects) of the bolt and fasteners of the bellcrank assembly. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

ATR has issued Avions de Transport Regional Service Bulletins ATR42–27–0098 and ATR72–27–1060, both dated December 19, 2006. 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.

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 51 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $8,160, or $160 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:

ATR–GIE Avions de Transport Régional (Formerly Aerospatiale): Docket No. FAA–2008–0409; Directorate Identifier 2007–NM–265–AD.

Comments Due Date

(a) We must receive comments by May 12, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to ATR Model ATR42 airplanes, certificated in any category, all models, all serial numbers, except airplanes which have received ATR modification 04372 (aileron spring tab) in production or ATR Service Bulletin (SB) ATR42–27–0081 or Service Bulletin ATR42–27–0092 in service; and ATR Model ATR72–101, –102, –201, –202, –211, and –212 airplanes, certificated in any category, all serial numbers, except airplanes which have received ATR modification 04373 (aileron spring tab) in production or ATR Service Bulletin ATR72–27–1045 in service.

Subject

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

Reason

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

It has been found on in-service aircraft that some aileron tab bellcrank assemblies were not in accordance with the definition drawings.

The main item concerned is the retainer Part Number S2711004620000, which has been manufactured with a hole larger than it should be, or redrilled out of limits.

The function of the retainer is to maintain the spacer in position in case of rupture or loss of the bolt which links the tab control rod to the bellcrank assembly. If the diameter of the retainer hole is out of limit, the retainer function is lost and fail-safe installation is no longer ensured. This condition, if not corrected, could lead to loss of the aileron tab bellcrank functionality, resulting in diminished control of the aircraft.

For the reasons stated above, this Airworthiness Directive (AD) requires the inspection [for proper hole diameter] of the aileron tab bellcrank retainer and, if necessary, the restoration of a proper installation [replacing any retainer which does not meet specified limits with a new retainer].

Corrective actions also include doing a general visual inspection (GVI) for discrepancies (corrosion, deformation, scratches, or other defects) of the bolt and fasteners of the bellcrank assembly.

Actions and Compliance

(f) Within 90 days after the effective date of this AD, unless already done, do the following actions.

(1) Measure the hole diameter of the retainer of the aileron automatic tab bellcrank assembly, in accordance with the Accomplishment Instructions of Avions de Transport Regional Service Bulletin ATR42–27–0098 or ATR72–27–1060, both dated December 19, 2006, as applicable. If the hole diameter is within specified limits, no further actions are required by paragraph (f) of this AD for that retainer.

(2) If any retainer exceeds the hole diameter limits specified in Avions de Transport Regional Service Bulletin ATR42–27–0098 or ATR72–27–1060, both dated December 19, 2006, as applicable, before further flight, replace the retainer with a retainer that meets hole diameter limits, in accordance with the Accomplishment Instructions of the applicable service bulletin. For any airplane for which a replacement retainer is not available, before further flight, do a GVI for discrepancies of the bolt and fasteners of the bellcrank assembly. If any discrepancies of the bolt and

fasteners are found, replace the retainer before further flight, in accordance with the Accomplishment Instructions of the applicable service bulletin. If no discrepancies are found, replace the retainer no later than 2 flight days after the hole measurement, in accordance with the Accomplishment Instructions of the applicable service bulletin.

Note 1: For the purposes of this AD, a GVI is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

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, International Branch, ANM–116, 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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2006–0376, dated December 19, 2006, and Avions de Transport Regional Service Bulletins ATR42–27–0098 and ATR72–27–1060, both dated December 19, 2006, for related information.

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

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7658 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27785; Directorate Identifier 2006–NM–267–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Airplanes and Model ERJ 190 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier supplemental NPRM for the products listed above. This action revises the earlier supplemental NPRM by expanding the scope. 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:

It has been found that some ''caution'' messages issued by the Flight Guidance Control System (FGCS) are not displayed on aircraft equipped with [certain] EPIC software load[s] * * *. Therefore, following a possible failure on one FGCS channel during a given flight, such a failure condition will remain undetected * * *. If another failure occurs on the second FGCS channel, the result may be a hardover command by the autopilot.

An unexpected hardover command may cause a sudden roll, pitch, or yaw movement, which could result in reduced controllability of the airplane. 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 May 6, 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: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149.

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–2007–27785; Directorate Identifier 2006–NM–267–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

We proposed to amend 14 CFR part 39 with an earlier NPRM for the specified products, which was published in the **Federal Register** on October 25, 2007 (72 FR 60593). That earlier NPRM proposed to require actions intended to address the unsafe condition for the products listed above.

Since that earlier NPRM was issued, we determined that the NPRM must be

revised to require the terminating action (installing certain Primus field-loadable software) and to revise the applicability to specify the software load versions. We have also revised paragraph (f) of this supplemental NPRM to cite the latest service information discussed below, and added new paragraph (f)(3) to give credit for use of earlier revisions of that service information to do the functional check described in paragraph (f).

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directives 2006–11–02R2 and 2006–11–03R2, both effective October 30, 2007 (referred to after this as ''the MCAI''). You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Embraer has issued Service Bulletins 170–22–0003 and 190–22–0002, both Revision 01, both dated November 5, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This 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.

Certain changes described above expand the scope of the earlier NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on 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 98 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $15,680, or $160 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:

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2007–27785; Directorate Identifier 2006–NM–267–AD.

Comments Due Date

(a) We must receive comments by May 6, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU airplanes, certificated in any category, equipped with Primus EPIC software load version 17.3, 17.4, 17.5, 17.6, or 17.7; and Model ERJ 190–100 STD, –100 LR, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes, certificated in any category, equipped with Primus EPIC software load version 4.3, 4.4, 4.5, 4.6, or 4.7.

Subject

(d) Air Transport Association (ATA) of America Code 22: Auto Flight.

Reason

(e) The mandatory continuing airworthiness information (MCAI) for Model ERJ 170 airplanes states:

It has been found that some ''caution'' messages issued by the Flight Guidance Control System (FGCS) are not displayed on aircraft equipped with EPIC software load 17.3, 17.4, 17.5, 17.6, or 17.7. Therefore, following a possible failure on one FGCS channel during a given flight, such a failure condition will remain undetected or latent in subsequent flights. If another failure occurs on the second FGCS channel, the result may be a hardover command by the autopilot.

The MCAI for Model ERJ 190 airplanes states:

It has been found that some ''caution'' messages issued by the Flight Guidance Control System (FGCS) are not displayed on

aircraft equipped with EPIC software load 4.3, 4.4, 4.5, 4.6, or 4.7. Therefore, following a possible failure on one FGCS channel during a given flight, such a failure condition will remain undetected or latent in subsequent flights. If another failure occurs on the second FGCS channel, the result may be a hardover command by the autopilot.

An unexpected hardover command may cause a sudden roll, pitch, or yaw movement, which could result in reduced controllability of the airplane. The MCAI mandates a functional check of the FGCS channels engagement and installation of an upgrade to the PRIMUS EPIC Field-Loadable Software. Corrective actions include replacing the actuator input-output processor, if necessary.

Actions and Compliance

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

(1) Within 300 flight hours after the effective date of this AD, do a functional check of the FGCS channels engagement, in accordance with EMBRAER Service Bulletin 170–22–0003 or Service Bulletin 190–22–0002, both Revision 01, both dated November 5, 2007, as applicable. Repeat the functional check thereafter at intervals not to exceed 600 flight hours, until the terminating action described by paragraph (f)(2) of this AD has been done. If any malfunction of the FGCS is discovered during any functional check required by this paragraph, before further flight, do all applicable replacements of the actuator input-output processor in accordance with the applicable service bulletin.

Note 1: For the purpose of this AD, a functional check is: ''A quantitative check to determine if one or more functions of an item perform within specified limits.''

(2) Within 8 months after the effective date of this AD, install PRIMUS EPIC Field-Loadable Software Version 19.3 or higher, in accordance with EMBRAER Service Bulletin 170–31–0019, Revision 01, dated June 25, 2007; or Service Bulletin 190–31–0009, Revision 02, dated June 29, 2007; as applicable. Doing this installation ends the repetitive functional checks required by paragraph (f)(1) of this AD.

(3) Any functional check done before the effective date of this AD in accordance with EMBRAER Service Bulletin 170–22–0003 or 190–22–0002, both dated November 9, 2006, as applicable, is considered acceptable for compliance with the requirements of paragraph (f)(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, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directives 2006–11–02R2 and 2006–11–03R2, both effective October 30, 2007; EMBRAER Service Bulletins 170–22–0003 and 190–22–0002, both Revision 01, both dated November 5, 2007; EMBRAER Service Bulletin 170–31–0019, Revision 01, dated June 25, 2007; and EMBRAER Service Bulletin 190–31–0009, Revision 02, dated June 29, 2007; for related information.

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

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7667 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0051; Directorate Identifier 2007–NE–37–AD]

RIN 2120–AA64

Airworthiness Directives; Teledyne Continental Motors (TCM) IO–520, TSIO–520, and IO–550 Series Engines with Superior Air Parts, Inc. (SAP) Cylinder Assemblies Installed

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain TCM IO–520, TSIO–520, and IO–550 reciprocating engines with certain SAP cylinder assemblies installed. This proposed AD would require initial and repetitive inspections and compression tests to detect cracks in those cylinders with more than 750 flight hours time-in-service (TIS). This proposed AD results from reports of cracks in the area of the exhaust valve and separation of cylinder heads from the barrels of SAP cylinder assemblies with certain part numbers. We are proposing this AD to prevent separation of the cylinder head, which could result in immediate loss of engine power, possible structural damage to the engine, and possible fire in the engine compartment.

DATES: We must receive any comments on this proposed AD by June 10, 2008.

ADDRESSES: Use one of the following addresses to comment on this proposed AD.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

FOR FURTHER INFORMATION CONTACT: Tausif Butt, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Blvd, Fort Worth, TX 76137–4298; e-mail: *tausif.butt@faa.gov*; telephone (817) 222–5195; fax (817) 222–5785.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2007–0051; Directorate Identifier 2007–NE–37–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light 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 with FAA personnel concerning this proposed AD.

Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

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 the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

Discussion

Superior Air Parts and operators in the field have reported 24 SAP cylinder assemblies with cracks or separation in the area of the exhaust valves. Some instances resulted in forced landings of the airplanes. The reported failures were cylinder assemblies in the naturally-aspirated and turbocharged engines. Most of the failures were on airplanes that have a high ratio of takeoffs and landings per flight hour. Most of the failures also occurred on airplanes that are operated predominantly at low altitude. SAP first informed us on July 12, 2006, that at least 14 SAP investment cast cylinder assemblies, P/Ns SA52000–A1, SA52000–A20P, SA52000–A21P, SA52000–A22P, SA52000–A23P, SA55000–A1, SA55000–A20P, had cracked in the area of the exhaust valve of the cylinder head since the year 2000. We received reports of 10 additional failures since that time, and the total number of reported failures is currently 24. We determined that the minimum wall thickness of the SAP cylinder assemblies, P/Ns SA52000–A1, SA52000–A20P, SA52000–A21P, SA52000–A22P, SA52000–A23P, SA55000–A1, SA55000–A20P, is significantly thinner in the failure location than the original equipment manufacturer (OEM) cylinders. We certified the SAP cylinders as equivalent replacement Parts Manufacturer Approval (PMA) parts for TCM 520 and 550 series engines, however, this design discrepancy results in stresses in the cylinder wall that are much higher in the SAP cylinder assemblies than in the OEM cylinder assemblies when subjected to identical loading. These higher stresses result in a lower fatigue life for the SAP cylinder assemblies relative to that of the OEM parts. The time-to-cracking or separation for this failure mode ranges between 823 hours time-since-new (TSN) and 1,985 TSN. The thin-wall thickness condition in the area of the exhaust valve seat of the cylinder head has been present since the initial SAP design, and it is present in all SAP cylinders of that design that have been manufactured to date. This condition, if not corrected, could result in immediate loss of engine power, possible structural damage to the engine, and possible fire in the engine compartment.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require inspecting or replacing, or both, certain SAP cylinder assemblies within 25 flight hours TIS after the effective date of the proposed AD for cylinders that are at their respective time-before-overhaul (TBO) TIS flight hours or have exceeded their respective TBO TIS flight hours.

Costs of Compliance

We estimate that this proposed AD could affect 8,000 engines installed on airplanes of U.S. registry. We also estimate that it would take about 5 work-hours per cylinder to perform the proposed actions, and that the average labor rate is $80 per work-hour. Required parts would cost about $1,150 per cylinder. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $12,400,000.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this 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 AD:

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

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

3. Would 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. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration 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 airworthiness directive:

Superior Air Parts, Inc. (SAP): Docket No. FAA–2007–0051; Directorate Identifier 2007–NE–37–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by June 10, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Teledyne Continental Motors (TCM) IO–520, TSIO–

520, and IO–550 series engines with SAP cylinder assemblies, part numbers (P/Ns) SA52000–A1, SA52000–A20P, SA52000–A21P, SA52000–A22P, SA52000–A23P, SA55000–A1, or SA55000–A20P, installed. These engines are installed on, but not limited to, the airplanes listed in Table 1 of this AD.

TABLE 1.—TELEDYNE CONTINENTAL MOTORS-RELATED AIRCRAFT MODELS

Engine model	Aircraft manufacturer	Aircraft model designation
IO–520–A	Cessna	210 D, E, F, G, & H
IO–520–A	Cessna	206
IO–520–A	Cessna	P206
IO–520–A	Rockwell	200 D
IO–520–B	Beechcraft	36 Bonanza
IO–520–B	Beechcraft	A36
IO–520–B	Navion	Range Master
IO–520–BA	Beechcraft	A36
IO–520–BA	Beechcraft	S & V35, V35A, V35B
IO–520–BA	Beechcraft	C33 A
IO–520–BA	Beechcraft	E33 A & C
IO–520–BA	Beechcraft	F33 A & C
IO–520–BA	Navion	Range Master
IO–520–BB	Beechcraft	A36
IO–520–BB	Beechcraft	V35B
IO–520–BB	Beechcraft	F33 A
IO–520–C & CB	Beechcraft	C55—E55 Baron
IO–520–D	Bellanca	17–30 Viking
IO–520–D	Cessna	A188–300 AG Truck
IO–520–D	Cessna	185
IO–520–E	(Cessna 310)	Exec 600
IO–520–E	(Beech Baron)	Pres 600
IO–520–F	Cessna	207
IO–520–F	Cessna	U206
IO–520–K	Bellanca	17–30A
IO–520–L	Cessna	210 K, L, M, N & R
IO–520–L	Cessna	210N II
IO–520–L	Cessna	210R
IO–520–M	Cessna	310R
IO–520–MB	Cessna	310R
IO–550–A	Cessna	310 Conversion
IO–550–B	Beechcraft	A36
IO–550–B	(Beech Bonanza)	Foxstar
IO–550–C	Beechcraft	58 Baron
IO–550–D	Cessna	185/188 Conversion
IO–550–E	Cessna	310 Conversion
IO550–F	Cessna	206/207 Conversion
IO–550–L	Cessna	210 Conversion

Unsafe Condition

(d) This AD results from reports of cracks in the area of the exhaust valve and separation of cylinder heads from the barrels of SAP cylinder assemblies with certain part numbers. We are issuing this AD to prevent separation of the cylinder head, which could result in immediate loss of engine power, possible structural damage to the engine, and possible fire in the engine compartment.

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.

Inspecting SAP Cylinder Assemblies

(f) For TCM IO–520, TSIO–520, and IO–550 series engines with SAP cylinder assemblies, P/Ns SA52000–A1, SA52000–A20P, SA52000–A21P, SA52000–A22P, SA52000–A23P, SA55000–A1, or SA55000–A20P, installed, with over 750 flight hours time-in-service (TIS), do the following within 25 flight hours TIS after the effective date of this AD:

(1) Inspect each cylinder head around the exhaust valve side for visual cracks or any signs of black combustion leakage.

(2) Replace any cracked or leaking cylinders.

(3) Perform a standard cylinder compression test using paragraph 8–14., Compression Testing of Aircraft Engine Cylinders, in Advisory Circular 43.13–1B, Change 1, dated September 27, 2001. Also, SAP Service Bulletin B08–01, dated January 10, 2008, contains information on cylinder differential pressure tests.

(i) If the cylinder pressure gage reads below 60 pounds per-square inch, apply a 2 percent soapy solution to the side of the leaking cylinder.

(ii) If you see air leakage and bubbles on the side of the cylinder, near the head-to-cylinder interface, replace the cylinder assembly.

(g) Thereafter, repeat the cylinder visual inspections and compression tests within 50 flight hours time-since-last inspection (TSLI) until the cylinders reach their time-before-overhaul (TBO) limits.

Replacing SAP Cylinder Assemblies

(h) For TCM IO–520, TSIO–520, and IO–550 series engines with SAP cylinder assemblies, P/Ns SA52000–A1, SA52000–A20P, SA52000–A21P, SA52000–A22P, SA52000–A23P, SA55000–A1, or SA55000–A20P, installed, that have accumulated or exceeded their respective TBO hours, replace the cylinder assembly within 25 flight hours TIS after the effective date of this AD.

Prohibition Against Installing Certain P/N SAP Cylinder Assemblies

(i) After the effective date of this AD, do not install any SAP cylinder assembly, P/Ns SA52000–A1, SA52000–A20P, SA52000–A21P, SA52000–A22P, SA52000–A23P, SA55000–A1, or SA55000–A20P, in any engine.

Alternative Methods of Compliance

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

Related Information

(k) FAA Advisory Circular 43.13–1B, Change 1, dated September 27, 2001, and SAP service bulletin B08–01, dated January 10, 2008, contain information on cylinder differential pressure tests.

(l) Contact Tausif Butt, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76137–4298; e-mail: *tausif.butt@faa.gov*; telephone (817) 222–5195; fax (817) 222–5785, for more information about this AD.

Issued in Burlington, Massachusetts, on April 4, 2008.

Peter A. White,

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

[FR Doc. E8–7711 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0423; Directorate Identifier 2008–CE–010–AD]

RIN 2120–AA64

Airworthiness Directives; GENERAL AVIA Costruzioni Aeronatiche Models F22B, F22C, and F22R Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

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

ENAC Italy AD 2004–376 was issued in response to two separate reports of cracks found in the Firewall-to-Engine mounting attachments. Detachment of the engine mounts from the structure is the possible consequence. Although the actual cause has not been finally determined, some repairs have been approved to address and correct the unsafe condition.

This new AD, which supersedes ENAC Italy AD 2004–376, retains the initial inspection requirement, adds repetitive inspections and clarifies the conditions under which aircraft that have been repaired by an approved method can be allowed to return to service.

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 May 12, 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.

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: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0423; Directorate Identifier 2008–CE–010–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 European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2008–0015, dated January 18, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

ENAC Italy AD 2004–376 was issued in response to two separate reports of cracks found in the Firewall-to-Engine mounting attachments. Detachment of the engine mounts from the structure is the possible consequence. Although the actual cause has not been finally determined, some repairs have been approved to address and correct the unsafe condition.

This new AD, which supersedes ENAC Italy AD 2004–376, retains the initial inspection requirement, adds repetitive inspections and clarifies the conditions under which aircraft that have been repaired by an approved method can be allowed to return to service.

The MCAI requires you to repetitively inspect the structure surrounding the heads of the four bolts of the engine mount attachment bracket for cracks or damage and repair any cracks or damage found as a result of the inspection. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Gomolzig Flugzeug-und Maschinenbau GmbH has issued General Avia F22 Modification 15328 Repair Instructions, dated September 10, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

There are no products of this type currently registered in the United States. However, this rule is necessary to ensure that the described unsafe condition is addressed if any of these products are placed on the U.S. Register in the future.

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD would affect no products of U.S. registry. We also estimate that it would take about 100 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $740 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $0, or $8,740 per product.

We have no way of determining the number of products that may need any necessary follow-on actions.

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:

General Avia Costruzioni Aeronatiche: Docket No. FAA–2008–0423; Directorate Identifier 2008–CE–010–AD.

Comments Due Date

(a) We must receive comments by May 12, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Models F22B, F22C, and F22R airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 71: Power Plant—General.

Reason

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

ENAC Italy AD 2004–376 was issued in response to two separate reports of cracks found in the Firewall-to-Engine mounting attachments. Detachment of the engine mounts from the structure is the possible consequence. Although the actual cause has not been finally determined, some repairs have been approved to address and correct the unsafe condition.

This new AD, which supersedes ENAC Italy AD 2004–376, retains the initial inspection requirement, adds repetitive inspections and clarifies the conditions under which aircraft that have been repaired by an approved method can be allowed to return to service.

The MCAI requires you to repetitively inspect the structure surrounding the heads of the four bolts of the engine mount attachment bracket for cracks or damages and repair any cracks or damages found as a result of the inspection.

Actions and Compliance

(f) Do the following actions:

(1) Unless already done within the last 100 hours time-in-service (TIS) before the effective date of this AD, before further flight and repetitively thereafter at intervals not to exceed 100 hours TIS, inspect the structure surrounding the heads of the four bolts of the engine mount attachment bracket, approaching from the cabin of the aircraft in the zone below the instrument panel. In case the indicated area (in particular for the upper bolts) is not visible due to equipment presence (relay, cooling fan, and so forth), remove all of the upper right-hand panel and part of the left-hand panel of the fireproof bulkhead to approach the area to be inspected through the engine compartment. In this case the use of a small mirror is necessary.

(2) If as a result of any inspection required by paragraphs (f)(1) of this AD you find any discrepancies (for example, cracked or broken parts), do one of the following actions before further flight:

(i) Repair the aircraft following Gomolzig Flugzeug-und Maschinenbau GmbH General Avia F22 Modification 15328 Repair Instructions, dated September 10, 2007; or

(ii) Repair the aircraft following a repair method approved by the FAA for this AD.

(3) If you repair the aircraft as specified in paragraph (f)(2)(i) of this AD, repetitively thereafter inspect the aircraft at intervals not to exceed 500 hours TIS following the instructions in paragraph (f)(1) of this AD. If as a result of these repetitive inspections you find any discrepancies, prior to further flight, repair the aircraft following Gomolzig Flugzeug-und Maschinenbau GmbH General Avia F22 Modification 15328 Repair Instructions, dated September 10, 2007.

(4) If you repair the aircraft as specified in paragraph (f)(2)(ii) of this AD, repetitively thereafter inspect the aircraft using the repetitive inspection interval established by the FAA-approved repair method used. Follow the inspection instruction in paragraph (f)(1) of this AD. If as a result of the inspection you find any discrepancies, repair before further flight following a repair method approved by the FAA for this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2008–0015, dated January 18, 2008; and Gomolzig Flugzeug-und Maschinenbau GmbH General Avia F22 Modification 15328 Repair Instructions, dated September 10, 2007, for related information.

Issued in Kansas City, Missouri, on April 3, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7657 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0204; Airspace Docket No. 08–AWP–5]

Revocation of Class E Airspace; Luke AFB, Phoenix, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revoke Class E airspace at Luke AFB, Phoenix, AZ. The United States Air Force (USAF) is closing the airport to Instrument Flight Rules (IFR) operations when the control tower is not open.

DATES: Comments must be received on or before May 27, 2008.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building ground floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone (202) 366–9826. You must identify FAA Docket No. FAA–2008–0204; Airspace Docket No. 08–AWP–5, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Western Service Area Office, System Support Group, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2008–0204 and Airspace Docket No. 08–AWP–5) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2008–0204 and Airspace Docket No. 08–AWP–5.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the **Federal Register**'s Web page at *http://www.gpoaccess.gov/fr/index.html.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Area, System Support Group, 1601 Lind Avenue, SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

History

On January 16, 2008, the FAA received a letter from Luke's Airfield Operations Flight Commander, Captain Ernesto Verger at Luke Air Force Base requesting removal of Class E2 airspace, as depicted on the Phoenix Sectional Chart. The USAF is closing the control tower to IFR operations, when the air traffic control tower is closed, landings and takeoffs are not allowed.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to revoke Class E2 airspace at Luke Air Force Base, Phoenix, AZ. The air traffic control tower will be closed to IFR aircraft operations at Luke AFB.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9R signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in that Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1)

Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it removes Class E2 airspace at Luke Air Force Base, Phoenix, AZ.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, and effective September 15, 2007, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AWP AZ E2 Phoenix, Luke AFB, AZ [Revoked]

* * * * *

Issued in Washington, on March 27, 2008.

Clark Desing,

Manager, System Support Group, Western Service Center.

[FR Doc. E8–7663 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 121

[Public Notice 6187]

RIN 1400–AC47

Amendment to the International Traffic in Arms Regulations: The United States Munitions List

AGENCY: Department of State.

ACTION: Proposed Rule.

SUMMARY: The Department of State is proposing to amend the text of the International Traffic in Arms Regulations (ITAR), Part 121, to add language clarifying how the criteria of Section 17(c) of the Export Administration Act of 1979 (''EAA'') are implemented in accordance with the Department of State's obligations under the Arms Export Control Act (''AECA''), and restating the Department's longstanding policy and practice of implementing the criteria of this provision.

DATES: *Effective Date:* The Department of State will accept comments on this proposed rule until May 12, 2008.

ADDRESSES: Interested parties may submit comments within 30 days of the date of publication by any of the following methods:

- *E-mail: DDTCResponseTeam@state.gov* with an appropriate subject line.
- *Mail:* Department of State, Directorate of Defense Trade Controls, Office of Defense Trade Controls Policy, ATTN: Regulatory Change, ITAR Section 121, SA–1, 12th Floor, Washington, DC 20522–0112.

Persons with access to the Internet may also view this notice by going to the regulations.gov Web site at *http://regulations.gov/index.cfm.*

FOR FURTHER INFORMATION CONTACT: Director Ann Ganzer, Office Defense Trade Controls Policy, Department of State, Telephone (202) 663–2792 or Fax (202) 261–8199; E-mail *DDTCResponseTeam@state.gov.* ATTN: Regulatory Change, ITAR Part 121.

SUPPLEMENTARY INFORMATION: There have been an increasing number of Commodity Jurisdiction (CJ) requests for certain basic parts and components having a long history of use on both civil and military aircraft. The intent of this notice is to make it clear that these parts and components are not subject to the jurisdiction of the Department of State and to restate the Department's longstanding practice of using the CJ process to determine the applicability of the criteria of Section 17(c) of the EAA (''Section 17(c)'') in cases where there is uncertainty.

Specifically, Section 17(c) states that any product (1) which is standard equipment, certified by the Federal Aviation Administration (''FAA''), in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under the EAA. Although the EAA expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, as extended by the notice of August 15, 2007, directed that the provisions of the EAA be carried out to the extent permitted by law.

Since its passage, the Department has implemented Section 17(c) through various regulatory amendments and notices consistent with the aims of the EAA and the AECA.

While Section 17(c) criteria apply to certain parts and components for civil aircraft, there have been recurring questions regarding its scope and meaning, and the Department's interpretation of its provisions. For example, while the language of Section 17(c) referred specifically to certain products that are standard equipment in civil aircraft, some exporters have mistakenly believed this provision applied to complete aircraft. Exporters have also suggested that FAA ''certification'' should by itself be sufficient to determine whether an article is subject to the controls of the USML. While FAA certification is one of the factors in the Section 17(c) criteria, FAA certifications serve a different purpose (safety of flight), and the FAA may issue a civil certification for military aircraft and their parts and components (e.g., the C–130J).

Shortly after the enactment of Section 17(c), the Department requested, through a proposed rule in the **Federal Register** on December 19, 1980, the opinions of the public as well as other agencies regarding the implementation of Section 17(c). The Department received many comments from the public, the Department of Commerce, and several other agencies. The Department noted that certain inertial navigation systems destined for specific

countries would be deleted from the USML, due primarily to the enactment of Section 17(c). In 1981, the Department conducted a review of the USML consistent with the AECA and Section 17(c) to determine whether any articles should be removed. The results were formally reported in a congressionally mandated report to Congress. This report came soon after Congress rejected a House bill that would have removed from the USML certain defense articles having a ''direct civilian application.'' Several years later, after taking into consideration the comments received from the public and other agencies on its proposed rule, the Department published a final rule in the **Federal Register** on December 6, 1984. In this rule, the Department noted there had been confusion on the relationship of the ITAR to the export regulations administered by the Department of Commerce. In an effort to provide clarity, the Department provided some general guidance by adding the then new Part 120 (at the time titled: Purpose, background and definitions), and the Department also referenced certain notable deletions to the USML, including certain trainer aircraft and certain inertial navigation systems.

However, some questions on this issue remained, so on April 7, 1988, the Department published a final rule in the **Federal Register**. Consistent with the Department's long established practice at that time of implementing Section 17(c), the Department added language to the ITAR requiring that a CJ review take place to determine whether any FAA-certified developmental aircraft or components thereof would be removed from the USML. The Department noted this change helped to conform the ITAR to the Department's current practice of requiring CJ's to address such uncertainties, and that this change would ensure the items excluded under Section 17(c) were properly identified. The Department again obtained comments from the public regarding this change.

In the years since the 1988 **Federal Register** Notice described above was published, the ITAR has consistently required a CJ review take place where there are uncertainties regarding whether an item is covered by the USML, including whether the item falls within the criteria of Section 17(c). In 1991, the Department undertook a comprehensive review of the USML to address jurisdiction over articles seemingly subject to both the USML and the Commerce Control List. This large interagency review was conducted consistent with the AECA and Section 17(c), and resulted in the removal of certain items from USML control. In 1996, based on interagency discussions, the specific reference to Section 17(c) in the ITAR was removed, but the Department's policy and practice of applying the criteria of Section 17(c) remained. We note that the removal of the reference to Section 17(c) may have caused some of the current confusion as to the Department's policy and procedures for applying Section 17(c).

This proposed rule reinstates the Section 17(c) reference in the ITAR to assist exporters in understanding the scope and application of the Section 17(c) criteria to parts and components for civil aircraft. It also clarifies that any part or component that (a) is standard equipment; (b) is covered by a civil aircraft type certificate (including amended type certificates and supplemental type certificates) issued by the Federal Aviation Administration for civil, non-military aircraft (this expressly excludes military aircraft certified as restricted and any type certification of Military Commercial Derivative Aircraft); and (c) is an integral part of such civil aircraft, is subject to the Export Administration Regulations. Where such part or component is not Significant Military Equipment (''SME''), no CJ determination is required to determine whether the item meets these criteria for exclusion under the USML, unless doubt exists as to whether these criteria have been met. However, where the part or component is SME, a CJ determination is always required, except where an SME part or component was integral to civil aircraft prior to the effective date of this rule.

Additionally, this proposed rule adds language in a new Note after Category VIII(h) to provide guidelines concerning the parts or components meeting these criteria. The change to Category VIII(b) also identifies and designates certain sensitive military items, heretofore controlled under Category VIII(h), as SME in order to simplify the implementation of the criteria of Section 17(c) consistent with the aims of the AECA. Previous and current licenses and other authorizations concerning these items will not require notification in accordance with § 124.11, and will not require a DSP–83, unless they are amended, modified, or renewed.

This requirement for a CJ determination by the Department of State helps ensure the U.S. Government is made aware of, and can reach an informed decision regarding, any sensitive military item proposed for standardization in the commercial aircraft industry before the item or technology is actually applied to a commercial aircraft program, whether such item is integral to the aircraft, and, if so, whether the development, production, and use of the technology associated with the item should nevertheless be controlled on the USML. It will also ensure the Department of State fulfills the requirements of section 38(f) of the Arms Export Control Act.

This regulation is intended to clarify the control of aircraft parts and components, and does not remove any items from the USML, nor does it change any CJ determinations. Should there be an apparent conflict between this regulation and a CJ determination issued prior to this date, the holder of the determination should seek reconsideration, citing this regulation.

Regulatory Analysis and Notices

Administrative Procedure Act

This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures contained in 5 U.S.C. 553 and 554.

Regulatory Flexibility Act

Since this amendment involves a foreign affairs function of the United States, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

Executive Orders 12372 and 13132

This amendment will not have substantial 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. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The

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

Executive Order 12866

This amendment is exempt from the review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 121

Arms and munitions, Exports, U.S. Munitions List.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 121 is proposed to be amended as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

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

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp, p. 79; 22 U.S.C. 2658; Pub L. 105–261, 112 Stat.1920.

2. Section 121.1, paragraph (c) Category VIII is amended by revising Category VIII paragraphs (b) and (h) to read as follows:

§ 121.1 General. The United States Munitions List.

* * * * *

Category VIII—Aircraft and Associated Equipment

* * * * *

(b) Military aircraft engines, except reciprocating engines, specifically designed or modified for the aircraft in paragraph (a) of this category, and all specifically designed military hot section components (i.e., combustion chambers and liners; high pressure turbine blades, vanes, disks and related cooled structure; cooled low pressure turbine blades, vanes, disks and related cooled structure; cooled augmenters; and cooled nozzles) and digital engine controls (e.g., Full Authority Digital Engine Controls (FADEC) and Digital Electronic Engine Controls (DEEC)).

* * * * *

(h) Components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for the articles in paragraphs (a) through (d) of this category, excluding aircraft tires and propellers used with reciprocating engines.

Note: The Export Administration Regulations (EAR) administered by the Department of Commerce control any part or component (including propellers) designed exclusively for civil, non-military aircraft (see § 121.3 for the definition of military aircraft) and civil, non-military aircraft engines. Also, a non-SME component or part (as defined in § 121.8(b) and (d) of this subchapter) that is not controlled under another category of the USML, that: (a) Is standard equipment; (b) is covered by a civil aircraft type certificate (including amended type certificates and supplemental type certificates) issued by the Federal Aviation Administration for a civil, non-military aircraft (this expressly excludes military aircraft certified as restricted and any type certification of Military Commercial Derivative Aircraft); and (c) is an integral part of such civil aircraft, is subject to the control of the EAR. In the case of any part or component designated as SME in this or any other USML category, a determination that such item may be excluded from USML coverage based on the three criteria above always requires a commodity jurisdiction determination by the Department of State under § 120.4 of this subchapter. The only exception to this requirement is where a part or component designated as SME in this category was integral to civil aircraft prior to [effective date of the final rule]. For such part or component, U.S. exporters are not required to seek a commodity jurisdiction determination from State, unless doubt exists as to whether the item meets the three criteria above (See § 120.3 and § 120.4 of this subchapter). Also, U.S. exporters are not required to seek a commodity jurisdiction determination from State regarding any non-SME component or part (as defined in § 121.8(b) and (d) of this subchapter) that is not controlled under another category of the USML, unless doubt exists as to whether the item meets the three criteria above (See § 120.3 and § 120.4 of this subchapter). These commodity jurisdiction determinations will ensure compliance with this section and the criteria of Section 17(c) of the Export Administration Act of 1979. In determining whether the three criteria above have been met, consider whether the same item is common to both civil and military applications without modification. Some examples of parts or components that are not common to both civil and military applications are tail hooks, radomes, and low observable rotor blades. ''Standard equipment'' is defined as a part or component manufactured in compliance with an established and published industry specification or an established and published government specification (e.g., AN, MS, NAS, or SAE). Parts and components that are manufactured and tested to established but unpublished civil aviation industry specifications and standards are also ''standard equipment,'' e.g., pumps, actuators, and generators. A part or component is not standard equipment if there are any performance, manufacturing or testing requirements beyond such specifications and standards. Simply testing a part or component to meet a military specification or standard does not in and of itself change the jurisdiction of such part or component unless the item was designed or modified to meet that specification or standard. Integral is defined as a part or component that is installed in the aircraft. In determining whether a part or component may be considered as standard equipment and integral to a civil aircraft (e.g., latches, fasteners, grommets, and switches) it is important to carefully review all of the criteria noted above. For example, a part approved solely on a non-interference/provisions basis under a type certificate issued by the Federal Aviation Administration would not qualify. Similarly, unique application parts or components not integral to the aircraft would also not qualify.

* * * * *

Dated: April 2, 2008.

John C. Rood,

Acting Under Secretary for Arms Control and International Security, Department of State.

[FR Doc. 08–1122 Filed 4–9–08; 1:48pm]

BILLING CODE 4710–25–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 150 and 165

[Docket No. USCG–2007–0087]

RIN 1625–AA00, 1625–AA11, and 1625–AA87

Regulated Navigation Areas, Safety Zones, Security Zones, and Deepwater Port Facilities; Navigable Waters of the Boston Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish regulated navigation areas around a recently constructed deepwater port facility in the waters of the Atlantic Ocean near the entrance to Boston Harbor and to establish safety and security zones around liquefied natural gas carriers (LNGCs) calling on these deepwater port facilities. The purpose of these regulated navigation areas is to protect vessels and mariners from the potential safety hazards associated with deepwater port operations, and to protect the LNGCs and deepwater port infrastructure from security threats or other subversive acts. All vessels, with the exception of LNGCs and deepwater port support vessels, would be prohibited from anchoring or otherwise deploying equipment that could become entangled in submerged infrastructure within 1000 meters of the submerged turret loading (STL) buoys associated with the deepwater port, and would be

prohibited from entering waters within 500 meters of the deepwater port STL buoys or the LNGCs using them. Additionally, this proposed rule would make minor amendments to the existing LNG security regulations for the Boston Captain of the Port (COTP) Zone to reflect multi-agency enforcement of those regulations.

DATES: Comments and related material must reach the Coast Guard on or before May 12, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2007–0087 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 Delivery:* 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 LCDR Heather Morrison, Coast Guard Sector Boston, at 617–223–3028, e-mail: *Heather.L.Morrison@uscg.mil.* 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 materials. 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–2007–0087), 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 a 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–2007–0087) in the Docket ID box, and click enter. You may also visit 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.

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://DocketsInfo.dot.gov.*

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility 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

On May 14, 2007, the Maritime Administration (MARAD), in accordance with the Deepwater Port Act of 1974, as amended, issued a license to Excelerate Energy to own, construct, and operate a natural gas deepwater port, ''Northeast Gateway.'' Northeast Gateway Deepwater Port (NEGDWP) is located in the Atlantic Ocean, approximately 13 nautical miles south-southeast of the City of Gloucester, Massachusetts, in Federal waters. The coordinates for its two submerged turret loading (STL) buoys are: STL Buoy A, Latitude 42°23′38″ N, Longitude 070°35′31″ W and STL Buoy B, Latitude 42°23′56″ N, Longitude 070°37′00″ W. The NEGDWP can accommodate the mooring, connecting, and offloading of two liquefied natural gas carriers (LNGCs) at one time. The NEGDWP operator plans to offload LNGCs by regasifying the liquefied natural gas (LNG) on board the vessels. The regasified natural gas is then transferred through two submerged turret loading buoys, via a flexible riser leading to a seabed pipeline that ties into the Algonquin Gas Transmission Pipeline for transfer to shore.

In order to protect mariners from the hazards associated with submerged deepwater port infrastructure and to ensure safety and security at and around LNGCs engaged in regasification and transfer operations at deepwater ports, the Coast Guard proposes to exercise its authority under the Ports and Waterway Safety Act (33 U.S.C. 1221, *et seq.*) to establish regulated navigation areas (RNAs) around the primary components of NEGDWP. The RNAs would prohibit vessels from anchoring or otherwise deploying equipment that could become entangled in submerged infrastructure within 1000 meters of the STL buoys associated with NEGDWP facilities. Specifically, in addition to anchoring, vessels would be precluded from engaging in commercial fishing in the RNAs using nets, dredges, or traps.

Under the authority of the Port and Waterways Safety Act (33 U.S.C. 1226) and the Magnuson Act (50 U.S.C. 191), the Coast Guard also proposes to place safety and security zones within the corresponding RNAs that would prohibit vessels from entering all waters within a 500-meter radius of the same STL buoys. The Coast Guard considers the RNAs that would be established by this rule as meeting the requirement and intent of the Deepwater Port Act of 1974, as amended, and as codified at 33 U.S.C. 1509(d). Accordingly, in addition to amending 33 CFR part 165 (Regulated Navigation Areas and Limited Access

Areas), this rulemaking would also amend a corresponding section in 33 CFR part 150 (Deepwater Ports: Operations). The proposed amendments to 33 CFR part 150 include amending that part to reflect a ship's routing measure—an ''area to be avoided''—that is being concurrently established in consultation with the International Maritime Organization. The area to be avoided will be reflected on nautical charts of the affected area along with the restricted navigation areas that would be established by this proposed rulemaking.

This proposed rule would also promote safety and security of LNG transfer operations by amending the existing regulations regarding LNGCs in the Boston Captain of the Port (COTP) Zone, to place safety and security zones around LNGCs while they are anchored, moored, or otherwise engaged in regasification and transfer procedures with deepwater ports within the navigable waters of the United States in the Boston COTP Zone.

Regulations already exist that provide for safety and security zones around LNGCs while transiting, anchored, or moored in other portions of the Boston COTP Zone. These regulations can be found at 33 CFR 165.110. The current regulations provide for safety and security zones for LNGCs transiting the Boston COTP Zone, anchored in the Broad Sound, or moored at the Distrigas LNG facility in Everett, Massachusetts. This rule would amend those regulations to add safety and security zones around vessels calling at deepwater ports in the Boston COTP Zone and within the navigable waters of the United States, as defined in 33 CFR 2.36(a) (i.e., out to 12 nautical miles from the territorial sea baseline). The proposed rule would add definitions to make the rule more clear. The proposed rule would eliminate the definition of ''navigable waters of the United States'' currently found at 33 CFR 165.110(a) as that paragraph is duplicative of the standard definition found at 33 CFR 2.36(a). Without these proposed changes, the security zone around a transiting LNGC would cease to exist once the vessel moored to NEGDWP. This proposed rule would eliminate that potential gap in security coverage.

Finally, this proposed rule would amend the language describing who may enforce the safety and security zones surrounding LNGCs in the Boston COTP Zone to better reflect recently executed Memoranda of Agreement between the Coast Guard and the Commonwealth of Massachusetts, the City of Boston, and other local municipalities. Under the terms of these agreements, State and local law enforcement officers may enforce, on behalf of the Coast Guard, maritime safety and security zones implemented by the Coast Guard under the authority of the Magnuson Act and the Port and Waterways Safety Act when falling within their respective jurisdictions. Copies of these agreements are available in the public docket for this rule where indicated in the **ADDRESSES** section, above.

Discussion of Proposed Rule

The Coast Guard would establish a regulated navigation area in which vessels may not anchor within 1000 meters of the STL buoys for NEGDWP as described above. Additionally, safety and security zones within the RNA would be established to prohibit vessels, other than LNGCs and support vessels as defined in 33 CFR 148.5, from entering waters within 500 meters of the aforementioned STL buoys.

The Coast Guard also proposes to establish safety and security zones encompassing all waters within a 500-meter radius of vessels carrying LNG while they are anchored, moored, or attached to or otherwise engaged in regasification or transfer procedures with deepwater ports.

Additionally, the Coast Guard intends to amend 33 CFR Part 150 to reflect a recommendatory ship's routing measure—an ''area to be avoided''—that is being concurrently established with, but separate and apart from, this rulemaking in consultation with the International Maritime Organization.

Finally, this proposed rule would alter the existing language of the regulations for LNGCs operating in the Boston COTP Zone to reflect the fact that federal, state, and local, law enforcement personnel may enforce such zones within their respective jurisdictions on behalf of the COTP.

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.

The USCG and MARAD are responsible for processing license applications to own, construct, and operate deepwater ports. To meet the requirements of the National Environmental Policy Act of 1969 (NEPA), the Coast Guard, in cooperation with MARAD, prepared an Environmental Impact Statement (EIS) in conjunction with reviewing the NEGDWP licensing application. Among other things, the EIS assessed the potential economic impacts associated with the construction and operation of NEGDWP, including the no anchoring and limited access areas that would be implemented by this rule. That EIS is available in the public docket for the licensing application (USCG–2005–22219) at *http://www.regulations.gov.*

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have 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 would not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or fish within 1000 meters of the STL Buoys for NEGDWP. The impact on small entities is expected to be minimal because vessels wishing to transit the Atlantic Ocean in the vicinity of the deepwater port may do so, provided they remain more than 500 meters from NEGDWP's STL Buoys and any LNGC vessels calling on the deepwater port, and provided they refrain from anchoring or deploying nets, dredges, or traps, within 1000 meters of the STL Buoys. Vessels wishing to fish in the area may do so in nearby and adjoining areas when otherwise permitted by applicable fisheries regulations.

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 want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental

jurisdiction and you have questions concerning its provisions or options for compliance, please contact LCDR Heather Morrison, Coast Guard Sector Boston, at 617–223–3028, e-mail: *Heather.L.Morrison@uscg.mil.* 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 would call 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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would 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 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 would not create an environmental risk to health or risk to safety that might 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 would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this 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. 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 proposed 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) (4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. A preliminary ''Environmental Analysis Check List'' supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 150

Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution, and Reporting and recordkeeping requirements.

33 CFR Part 165

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

Words of Issuance and Proposed Regulatory Text

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Parts 150 and 165 as follows:

PART 150—DEEPWATER PORTS: OPERATIONS

1. The authority citation for Part 150 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6), (m)(2); 33 U.S.C. 1509(a); E.O. 12777, sec. 2; E.O. 13286, sec. 34, 68 FR 10619; Department of Homeland Security Delegation No. 0170.1(70), (73), (75), (80).

2. In § 150.940, add paragraph (c) to read as follows:

§ 150.940 Safety zones for specific deepwater ports.

* * * * *

(c) *Northeast Gateway Deepwater Port (NEGDWP).*

(1) *Location.* The safety zones for the NEGDWP consist of circular zones, each with a 500-meter radius and centered on each of the deepwater port's two submerged turret loading (STL) buoys. STL Buoy ''A'' is centered at the following coordinates: 42°23′38″ N, 070°35′31″ W. STL Buoy ''B'' is centered at the following coordinates: 42°23′56″ N, 070°37′00″ W. Each safety zone encompasses, within the respective 500-meter circles, the primary components of NEGDWP, including a submerged loading turret (buoy) and a pipeline end manifold (STL/PLEM). Each safety zone is located approximately 13 miles south-southeast of the City of Gloucester, Massachusetts, in Federal waters.

(2) *No anchoring area.* Two mandatory no anchoring areas for NEGDWP are established for all waters within circles of 1,000-meter radii

centered on the submerged turret loading buoy positions set forth in paragraph (c)(1) of this section.

(3) *Area to be avoided.* An area to be avoided (ATBA) that is approximately 2.8625 square nautical miles in size has been established surrounding the safety zones and no anchoring areas described in paragraphs (c)(1) and (2), of this section, and is bounded as follows:

Starting at point (i) 42°24′17″ N, 070°35′16″ W; then a rhumb line to point (ii) 42°24′35″ N, 070°36′46″ W; then an arc with a 1250 m radius centered at point (iii) 42°23′56″ N, 070°37′00″ W, to a point (iv) 42°23′17″ N, 070°37′15″ W; then a rhumb line to point (v) 42°22′59″ N, 070°35′45″ W; then an arc with a 1250 m radius centered at point (vi) 42°23′38″ N, 070°35′31″ W, to start.

(4) *Regulations.* (i) In accordance with the general regulations set forth in 33 CFR 165.23 and elsewhere in this part, no person or vessel may enter the waters within the boundaries of the safety zones described in paragraph (c)(1) of this section unless previously authorized by the Captain of the Port (COTP) Boston, or his/her authorized representative.

(ii) Notwithstanding paragraph (c)(4)(i) of this section, tankers and support vessels, as defined in 33 CFR 148.5, operating in the vicinity of NEGDWP are authorized to enter and move within such zones in the normal course of their operations following the requirements set forth in 33 CFR 150.340 and 150.345, respectively.

(iii) All other vessel operators desiring to enter or operate within the safety zones described in paragraph (c)(1) of this section must contact the COTP or the COTP's authorized representative to obtain permission by calling the Sector Boston Command Center at 617–223–5761. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or the COTP's authorized representative.

(iv) No vessel, other than a support vessel or tanker calling on NEGDWP, may anchor in the area described in paragraph (c)(2) of this section.

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

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

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

4. In § 165.110, revise paragraphs (a), (c)(2), and (c)(3); and add paragraph (b)(4) to read as follows:

§ 165.110 Safety and Security Zone; Liquefied Natural Gas Carrier Transits and Anchorage Operations, Boston, Massachusetts.

(a) *Definitions.* As used in this section—

Authorized representative means a Coast Guard commissioned, warrant, or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port (COTP) Boston.

Deepwater port means any facility or structure meeting the definition of deepwater port in 33 CFR 148.5.

Support vessel means any vessel meeting the definition of support vessel in 33 CFR 148.5.

(b) * * *

(4) *Vessels calling on a deepwater port.* All waters within a 500-meter radius of any LNGC engaged in regasification or transfer, or otherwise moored, anchored, or affixed to a deepwater port listed in 33 CFR 150.490 and falling within the waters of the Boston COTP Zone, as defined in 33 CFR 3.05–10.

(c) * * *

(2) No person or vessel may enter the waters within the boundaries of the safety and security zones described in paragraph (b) of this section unless previously authorized by the COTP Boston, or his/her authorized representative. However, LNGCs and support vessels, as defined in 33 CFR 148.5, operating in the vicinity of NEGDWP are authorized to enter and move within such zones in the normal course of their operations following the requirements set forth in 33 CFR 150.340 and 150.345, respectively.

(3) All vessels operating within the safety and security zones described in paragraph (b) of this section must comply with the instructions of the COTP or his/her authorized representative.

5. Add § 165.117 to read as follows:

§ 165.117 Regulated Navigation Areas, Safety and Security Zones: Deepwater Ports, First Coast Guard District.

(a) *Location.* (1) Regulated navigation areas. All waters within a 1,000-meter radius of the geographical positions set forth in paragraph (a)(3) of this section are designated as regulated navigation areas.

(2) *Safety and security zones.* All waters within a 500-meter radius of the geographic positions set forth in paragraph (a)(3) of this section are designated as safety and security zones.

(3) *Coordinates.* (i) The geographic coordinates forming the loci for the regulated navigation areas, safety, and security zones for Northeast Gateway Deepwater Port are: 42°23′38″ N, 070°35′31″ W; and 42°23′56″ N, 070°37′00″ W.

(ii) [Reserved]

(b) *Definitions.* As used in this section—

Authorized representative means a Coast Guard commissioned, warrant, or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port (COTP) Boston.

Deepwater port means any facility or structure meeting the definition of deepwater port in 33 CFR 148.5.

Dredge means fishing gear consisting of a mouth frame attached to a holding bag constructed of metal rings or mesh.

Support vessel means any vessel meeting the definition of support vessel in 33 CFR 148.5.

Trap means a portable, enclosed device with one or more gates or entrances and one or more lines attached to surface floats used for fishing. Also called a pot.

(c) *Applicability.* This section applies to all vessels operating in the regulated navigation areas set forth in paragraph (a) of this section, except—

(1) Those vessels conducting cargo transfer operations with the deepwater ports whose coordinates are provided in paragraph (a)(3) of this section,

(2) Support vessels operating in conjunction therewith, and

(3) Coast Guard vessels or other law enforcement vessels operated by or under the direction of an authorized representative of the COTP Boston.

(d) *Regulations.* (1) No vessel may anchor or engage in commercial fishing using nets, dredges, or traps (pots) in the regulated navigation areas set forth in paragraph (a)(1) of this section.

(2) In accordance with the general regulations in §§ 165.23 and 165.33 of this part, entry into or movement within the safety and security zones designated in paragraph (a)(2) of this section is prohibited unless authorized by the COTP Boston, or his/her authorized representative.

(3) Notwithstanding paragraph (d)(2) of this section, tankers and support vessels, as defined in 33 CFR 148.5, operating in the vicinity of NEGDWP are authorized to enter and move within such zones in the normal course of their operations following the requirements set forth in 33 CFR 150.340 and 150.345, respectively.

(4) All vessels operating within the safety and security zones described in paragraph (a)(2) of this section must

comply with the instructions of the COTP or his/her authorized representative.

Dated: March 26, 2008.

T.V. Skuby,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. E8–7676 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 53

RIN 2900–AM26

Assistance to States in Hiring and Retaining Nurses at State Veterans Homes

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to establish a mechanism for States to obtain payments from VA to assist a State veterans home in the hiring and retention of nurses for the purpose of reducing nursing shortages at the home. This rule would implement provisions of the Veterans Health Programs Improvement Act of 2004.

DATES: Comments on the proposed rule must be received on or before June 10, 2008.

ADDRESSES: Written comments may be submitted through *www.regulations.gov;* by mail or hand-delivery to Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AM26–Assistance to States in Hiring and Retaining Nurses at State Veterans Homes.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jacquelyn Bean, Chief, State Veterans Home Per Diem Program, at (202) 461–6771, or Christa M. Hojlo, PhD, Director, State Veterans Home Clinical and Survey Oversight, at (202) 461–6779; Veterans Health Administration (114), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: This document proposes to establish a new 38 CFR part 53 consisting of regulations captioned ''PAYMENTS TO STATES FOR PROGRAMS TO PROMOTE THE HIRING AND RETENTION OF NURSES AT STATE VETERANS HOMES'' (referred to below as the proposed regulations). The proposed regulations provide a mechanism for a State to obtain payments from VA to assist a State Veterans Home (SVH) in the hiring and retention of nurses for the purpose of reducing nursing shortages at that home. These regulations would implement provisions in section 201 of the Veterans Health Programs Improvement Act of 2004 (Pub. L. 108–422), which are codified at 38 U.S.C. 1744.

Definitions

Definitions applicable to the proposed regulations are set forth at § 53.02. We included definitions of *nurse, State, SVH,* and *State representative.*

We propose to define nurse to mean an individual who is a registered nurse, a licensed practical nurse, a licensed vocational nurse, or a nursing assistant certified in the State in which payment is made and who is a bedside care giver (e.g., this would not include an individual acting in the capacity of an advance practice nurse, an administrative nurse, or a director of nursing). We also propose that the terms nurses and nursing shall be construed consistent with this definition. The proposed definition of *nurse* reflects the intent of the law (38 U.S.C. 1744) to reduce shortages of nurses who provide direct bedside care for veterans at least a majority of the time. H. Rep. No. 108–538, at 5 (2004) (law intended to assist State homes ''in hiring nurses to care for veterans''). Advance practice nurses, administrative nurses, and directors of nursing generally do not provide direct bedside care, and therefore, would generally not be eligible for participation in the proposed program. We are particularly interested in soliciting comments on the proposed definition of *nurse.*

We propose to define *State* consistent with 38 U.S.C. 101(20) to cover places where an SVH could be located, including the States, Territories, and possessions of the United States; the District of Columbia; and the Commonwealth of Puerto Rico.

Under 38 U.S.C. 1744(b), a State is eligible for nurse hiring and retention payments if it receives per diem payments from VA for domiciliary care, nursing home care, adult day health care, and hospital care. Accordingly, we propose to define *State Veterans Home,* consistent with VA's per diem programs, to include State facilities approved by VA for the purpose of providing domiciliary, nursing home, adult day health, and hospital care for certain disabled veterans.

We propose to define *State representative* to mean the official who would have authority to sign the application on behalf of the State and would otherwise be the State contact for actions under the regulations.

Decisions and Notifications

Under the proposed regulations, authority would be delegated to the Chief Consultant, Geriatrics and Extended Care, to make all determinations regarding payments. The Chief Consultant would also provide written notice to State representatives concerning approvals, denials, or requests for additional information under the regulations.

General Requirements for Payments

Proposed § 53.11 would provide for payments to a State for an employee incentive program to reduce the shortage of nurses at a SVH if the requirements of proposed § 53.11(a) are met. Except as discussed below, these requirements restate the provisions of 38 U.S.C. 1744.

To be eligible for payments under proposed § 53.11(a)(3), the SVH must have a nursing shortage that is documented by credible evidence, including but not limited to SVH records showing vacancies, SVH records showing overtime use, and reports documenting that nurses are not available in the local area. This is intended to implement the section 1744(e) requirement that an application describe the nursing shortage at the SVH and to ensure that payments are made only when an actual nursing shortage exists.

Under section 1744(c), a State may use VA's payments only to provide funds for an employee incentive scholarship program or other employee incentive program designed to promote the hiring and retention of nurses and reduce a nursing shortage. Consistent with section 1744(c), proposed § 53.11(a)(4) would limit the use of VA's payments to nursing incentives and expressly prohibit using the funds for any other purpose, such as covering all or part of a nurse's standard employee benefits (e.g., salary, health insurance, or retirement plan). Accordingly, under the proposed regulations, an ''employee

incentive program'' would not include standard employee benefits.

Proposed § 53.11(a)(5) would require the applicant to provide documentation concerning an existing employee incentive program or one that is ready for immediate implementation upon receipt of VA funding. VA would require this information as part of the application process to ensure that the payments are in compliance with the limitations in section 1744(c). VA would not make payments to a State under the proposed regulations if the State is merely considering or developing an incentive program.

Proposed § 53.11(a)(7) would require that an employee incentive program include a mechanism to ensure that any individual receiving payments under the program will work at the SVH as a nurse for a period commensurate with the payments. It would also require States to design such a program, if at all possible, to eliminate any nursing shortage at the SVH within 3 years of VA's first payment to the State or SVH under the program. These provisions are necessary to ensure that the program is effective in meeting the goal of expeditiously reducing nursing shortages. Given that section 1744(f) specifies that VA funding for SVH nurse employee incentive programs comes from general medical appropriations and given the competition for funding various VA health care activities, it is reasonable to require States to establish effective programs.

Proposed § 53.11(b) would implement the mandate in section 1744(c) that VA take into consideration the need for flexibility and innovation when establishing criteria for receipt of incentive funds. We interpret section 1744(c) as authorizing payment of short-term scholarships for continuing nursing education, sign-on bonuses for nurses, and improvements to working conditions. Ongoing research suggests that innovative improvements to the working conditions in nursing homes can have a significant impact on nurse retention. While creative alternatives are still being developed and researched, some examples of ''other improvements to working conditions'' include but are not limited to improving the ambiance in the nurse work areas or purchasing handheld devices or software to ease the burden of documentation. These provisions are designed to provide the proper balance between the statutory admonition for VA to use ''flexibility and innovation'' when considering employee incentive programs and making payments only for those programs that have a likelihood of success in reducing nursing shortages. In determining whether an employee incentive program is likely to be effective, VA will consider any available information, including the program's past performance.

Application Requirements

To apply for payments during a fiscal year, a State representative would be required to submit to the Chief Consultant, Geriatrics and Extended Care Service, a completed VA Form 10–0430, including all required documentation and other information necessary for determining whether the applicant is eligible for payments. VA must receive the applicant's VA Form 10–0430 during the first quarter (October 1–December 31) of the fiscal year in which the VA payments are sought. (**Note:** the Web site given in § 53.20(a) for access to the form will be available upon final publication of this rule.) For example, if the State intends to request payment for fiscal year 2009, the State must submit, and VA must receive, a complete application between October 1, 2008, and December 31, 2008. This submission requirement is intended to ensure that payments and employee incentive activities will occur in the same fiscal year that application was made as required by the provisions of section 1744. Further, for informational purposes, the provisions of proposed § 53.20(a) specify how to obtain VA Form 10–0430. Moreover, consistent with section 1744, the regulations provide that the State must submit a new application for each fiscal year that the State seeks payments under the program.

We interpret section 1744 as expressing congressional intent to assist States in funding incentive programs for nurses that provide care for veterans by funding up to 50 percent of the cost of an employee incentive program. Accordingly, under § 53.20(b), the State representative would be required to submit to VA evidence that the State has sufficient funding, when combined with the VA payments, to fully operate the employee incentive program through the end of the fiscal year. This is essential to ensure that VA funds would not be unused because they were allocated to a State that is unable to operate its program due to lack of funding. To meet this requirement, the State representative would provide VA a letter from an authorized State official certifying that, if VA were to award payments under this program, the non-VA share of the funds would be, by a date or dates specified in the certification, available to the State for the employee incentive program without further State action to make such funds available. Additionally, if the certification references a State law that appropriates money for the employee incentive program, a copy of the relevant State law would be submitted with the certification.

In addition, if an application does not contain sufficient information for a determination under the proposed regulations, the State representative would be notified in writing of any additional submission required and would be asked for such additional information. If the State representative fails to respond within 30 calendar days (which may extend beyond December 31) the submission would be deemed abandoned. We expect that the submissions would generally contain all of the required information. However, we believe that such an occasional delay in a submission would not prevent VA from ensuring that payments and employee incentive activities would occur in the same fiscal year that application was made.

Payments

Proposed § 53.30(a) restates the statutory formula at 38 U.S.C. 1744(d) for making payments.

Payments under this program would be made to the States in a lump sum or installments as deemed appropriate by the Chief Consultant, Geriatrics and Extended Care. Payment would be made under § 53.30(c) to the State or, if designated by the State representative, the SVH conducting the employee incentive program. This provides flexibility to cover different types of employee incentive programs while still meeting the needs of employee incentive programs.

Consistent with 38 U.S.C. 1744(c), proposed § 53.30(d) provides that payments made under the regulations for a specific employee incentive program shall be used solely for that purpose.

Annual Report

Proposed § 53.31(a), which would implement section 1744(i), would require any SVH that receives an incentive payment to provide VA a detailed report concerning use of the funds, including an analysis of how effective the incentive program has been on nurse staffing in the SVH.

Proposed § 53.31(b) advises States and SVHs of the requirements of the Single Audit Act of 1984 (see 38 CFR part 41).

Recapture Provisions

Proposed § 53.32 provides that if a State fails to use the funds to assist a SVH to hire and retain nurses through an employee incentive program or

receives payments in excess of the amount allowed under § 53.30, the United States is entitled to recover the amount not used for such purpose or the excess amount received. This is necessary to permit VA to enforce section 1744(c), which authorizes a State to use funds only for an approved employee incentive program and only in accordance with the specified formula.

Notification of Funding Decision

Proposed § 53.41 advises affected States how they will be notified if VA determines that a submission from a State fails to meet the requirements of this part for funding.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined and it has been determined to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This proposed rule would have no such effect on State, local, or tribal governments, or on the private sector.

Paperwork Reduction Act

OMB assigns a control number for each collection of information it approves. Except for emergency approvals under 44 U.S.C. 3507(j), VA 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 proposed rule at §§ 53.11, 53.20, 53.31, and 53.40 contains collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521). In notices published in the **Federal Register** on April 2, 2007 (72 FR 15763), and July 27, 2007 (72 FR 35303), we requested public comments on these collections of information. We did not receive any comments. Further, under section 3507(d) of the Act, we are submitting a copy of this rulemaking action to OMB for its review of these collections of information.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The funding for this program would be made by the Federal government. The amount contributed by a SVH to fund an incentive program would be an insignificant amount of the costs for operating the SVH. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.005, Grants to States for the Construction of SVHs; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.026, Veterans State Adult Day Health Care.

List of Subjects in 38 CFR Part 53

Administrative practice and procedure, Adult day health care, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and Dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and record-keeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: April 4, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

For reasons set forth in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR chapter I by to adding part 53 to read as follows:

PART 53—PAYMENTS TO STATES FOR PROGRAMS TO PROMOTE THE HIRING AND RETENTION OF NURSES AT STATE VETERANS HOMES

Sec.

53.01 Purpose and scope.
53.02 Definitions.
53.10 Decision makers, notifications, and additional information.
53.11 General requirements for payments.
53.20 Application requirements.
53.30 Payments.
53.31 Annual report.
53.32 Recapture provisions.
53.40 Submissions of information and documents.
53.41 Notification of Funding Decision.

Authority: 38 U.S.C. 101, 501, 1744.

§ 53.01 Purpose and scope.

In accordance with the provisions of 38 U.S.C. 1744, this part sets forth the mechanism for a State to obtain payments to assist a State Veterans Home (SVH) in the hiring and retention of nurses for the purpose of reducing nursing shortages at that SVH.

(Authority: 38 U.S.C. 101, 501, 1744).

§ 53.02 Definitions.

For the purpose of this part:

Nurse means an individual who is a registered nurse, a licensed practical nurse, a licensed vocational nurse, or a nursing assistant certified in the State in which payment is made and who is a bedside care giver at least a majority of the time (*e.g.*, this would generally not include an individual acting in the capacity of an advance practice nurse, an administrative nurse, or a director of nursing) (the terms *nurses* and *nursing* shall be construed consistent with this definition).

State means each of the several States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

State representative means the official designated in accordance with State authority with responsibility for matters relating to payments under this part.

State Veterans Home (SVH) means a home approved by the Department of Veterans Affairs (VA) which a State established primarily for veterans disabled by age, disease, or otherwise, who by reason of such disability are incapable of earning a living. A SVH may provide domiciliary care, nursing home care, adult day health care, and hospital care. Hospital care may be provided only when the SVH also provides domiciliary and/or nursing home care.

(Authority: 38 U.S.C. 101, 501, 1744).

§ 53.10 Decision makers, notifications, and additional information.

The Chief Consultant, Geriatrics and Extended Care, will make all determinations regarding payments under this part, and will provide written notice to affected State representatives of approvals, denials, or requests for additional information under this part.

(Authority: 38 U.S.C. 101, 501, 1744).

§ 53.11 General requirements for payments.

(a) VA will make payment under this part to a State for an employee incentive program to reduce the shortage of nurses at the SVH, when the following conditions are met:

(1) The State representative applies for payment in accordance with the provisions of § 53.20,

(2) The SVH receives per diem payments from VA under the provisions of 38 U.S.C. 1741 for one or more of the following: adult day health care, domiciliary care, hospital care, or nursing home care,

(3) The SVH has a nursing shortage that is documented by credible evidence, including but not limited to SVH records showing nursing vacancies, SVH records showing nurse overtime use, and reports documenting that nurses are difficult to hire in the local area and difficult to retain as employees at the SVH,

(4) The SVH does not use payments to pay for all or part of a nurse's standard employee benefits, such as salary, health insurance, or retirement plan,

(5) The SVH provides to the Chief Consultant, Geriatrics and Extended Care, documentation establishing that it has an employee incentive program that:

(i) Is likely to be effective in promoting the hiring and retention of nurses for the purpose of reducing nursing shortages at that home, and

(ii) Is in operation or ready for immediate implementation if VA payments are made under this part,

(6) The payment amount applied for by the State is no more than 50 percent of the funding for the employee incentive program during the fiscal year,

(7) The SVH employee incentive program includes a mechanism to ensure that an individual receiving benefits under the program works at the SVH as a nurse for a period commensurate with the benefits provided, and, insofar as possible, the program is designed to eliminate any nursing shortage at the SVH within a 3-year period from the initiation of VA payments,

(8) The SVH, if it received payments under this part during a previous fiscal year, has met the reporting requirements of § 53.31(a) regarding such payments, and

(9) The SVH credits to its employee incentive program any funds refunded to the SVH by an employee because the employee was in breach of an agreement for employee assistance funded with payments made under this part and the SVH credits the amount returned as a non-Federal funding source.

(b) VA intends to allow flexibility and innovation in determining the types of employee incentive programs at SVHs eligible for payments. Programs could include such things as the provision of short-term scholarships for continuing nursing education, sign-on bonuses for nurses, and improvements to working conditions. In determining whether an employee incentive program is likely to be effective, VA will consider any information available, including past performance of the SVH's program funded by payments made under this part.

(Authority: 38 U.S.C. 101, 501, 1744).

§ 53.20 Application requirements.

(a) To apply for payments during a fiscal year, a State representative must submit to VA, in accordance with § 53.40, a completed VA Form 10–0430 and documentation specified by the form (VA Form 10–0430 is available at VA medical centers and on the Internet at *http://www1.va.gov/geriatricsshg/* or may be obtained by notifying the Geriatrics and Extended Care Office (114) at 202–461–6750, VHA Headquarters, 810 Vermont Avenue, NW., Washington, DC 20420. The submission must be made to VA during the first quarter (October 1–December 31) of the fiscal year in which the VA payments are sought. The State must submit a new application for each fiscal year that the State seeks payments for an incentive program.

(b) As part of the application, the State representative must submit to VA evidence that the State has sufficient funding, when combined with the VA payments, to fully operate its employee incentive program through the end of the fiscal year. To meet this requirement, the State representative must provide to VA a letter from an authorized State official certifying that, if VA were to approve payments under this part, the non-VA share of the funds for the program would be by a date or dates specified in the certification, available for the employee incentive program without further State action to make such funds available. If the certification is based on a State law authorizing funds for the employee incentive program, a copy of the State law must be submitted with the certification.

(c) If an application does not contain sufficient information for a determination under this part, the State representative will be notified in writing of any additional submission required and that the State has 30 calendar days from the date of the notice to submit such additional information or no further action will be taken. If the State representative does not submit all of the required information or demonstrate that he or she has good cause for failing to provide the information within 30 calendar days of the notice (which may extend beyond the first quarter of the Federal fiscal year), then the State applicant will be notified in writing that the application for VA assistance will be deemed withdrawn and no further action will be taken.

(Authority: 38 U.S.C. 101, 501, 1744).

§ 53.30 Payments.

(a) The amount of payments awarded under this part during a fiscal year will be the amount requested by the State and approved by VA in accordance with this part. Payments may not exceed 50 percent of the cost of the employee incentive program for that fiscal year and may not exceed 2 percent of the amount of the total per diem payments estimated by VA to be made to the State for that SVH during that fiscal year for adult day health care, domiciliary care, hospital care, and nursing home care, under 38 U.S.C. 1741.

(b) Payments will be made by lump sum or installment as deemed appropriate by the Chief Consultant, Geriatrics and Extended Care.

(c) Payments will be made to the State or, if designated by the State

representative, the SVH conducting the employee incentive program.

(d) Payments made under this part for a specific employee incentive program shall be used solely for that purpose.

(Authority: 38 U.S.C. 101, 501, 1744).

§ 53.31 Annual report.

(a) A State receiving payment under this part shall provide to VA a report setting forth in detail the use of the funds, including a descriptive analysis of how effective the employee incentive program has been in improving nurse staffing in the SVH. The report shall be provided to VA within 60 days of the close of the Federal fiscal year (September 30) in which payment was made and shall be subject to audit by VA.

(b) A State receiving payment under this part shall also prepare audit reports as required by the Single Audit Act of 1984 (see 38 CFR part 41) and submit them to VA.

(Authority: 38 U.S.C. 101, 501, 1744).

§ 53.32 Recapture provisions.

If a State fails to use the funds provided under this part for the purpose for which payment was made or receives more than is allowed under this part, the United States shall be entitled to recover from the State the amount not used for such purpose or the excess amount received.

(Authority: 38 U.S.C. 101, 501, 1744).

§ 53.40 Submissions of information and documents.

All submissions of information and documents required to be presented to VA must be made to the Chief Consultant, Geriatrics and Extended Care (114), VHA Headquarters, 810 Vermont Avenue, NW., Washington, DC 20420.

(Authority: 38 U.S.C. 101, 501, 1744).

§ 53.41 Notification of Funding Decision.

If the Chief Consultant, Geriatrics and Extended Care, determines that a submission from a State fails to meet the requirements of this part for funding, the Chief Consultant shall provide written notice of the decision and the reasons for the decision.

(Authority: 38 U.S.C. 101, 501, 1744).

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 080220219–8445–02]

RIN 0648–AT77

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to a U.S. Navy Shock Trial

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

ACTION: Proposed rule; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for an authorization for the taking of marine mammals incidental to conducting a Full Ship Shock Trial (FSST) of the MESA VERDE (LPD 19) in the offshore waters of the Atlantic Ocean off Mayport, FL. By this document, NMFS is proposing regulations to govern that take. In order to issue final regulations governing the take and Letters of Authorization (LOAs) thereunder, NMFS must determine that the total taking will have a negligible impact on the affected species or stocks of marine mammals. NMFS regulations must set forth the permissible methods of take and other means of effecting the least practicable adverse impact on the affected species or stocks of marine mammals and their habitat, as well as monitoring and reporting requirements. NMFS invites comment on the proposed regulations and findings.

DATES: Comments and information must be received by May 12, 2008.

ADDRESSES: You may submit comments on the application and proposed rule, using the identifier 0648–AT77, by any of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov*.

Fax: 301–427–2521 (using the identifier: *0648–AT77*).

Mail: paper, disk, or CD-ROM comments should be addressed to: Mr. P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225.

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.

A copy of the application, containing a list of references used in this document, and other documents cited herein, may be obtained by writing to the above address, by telephoning one of the contacts listed under **FOR FURTHER INFORMATION CONTACT**, or at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

A copy of the Navy's documents cited in this proposed rule may also be viewed, by appointment, during regular business hours at this address.

FOR FURTHER INFORMATION CONTACT: Ken Hollingshead Office of Protected Resources, NMFS, (301) 713–2289, ext. 128.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as: ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

With respect to military readiness activities, the MMPA defines ''harassment'' as:

(i) any act that injures or has the significant potential to injure a marine mammal or

marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of Request

On June 25, 2007, NMFS received an application from the Navy requesting authorization for the taking of marine mammals incidental to its FSST during a 4–week period in the spring/ summer of 2008 utilizing the MESA VERDE (LPD 19), a new amphibious transport dock ship. The shock trial of the MESA VERDE consists of up to four underwater detonations of a nominal 4,536 kilogram (kg) (10,000 pound (lb)) charge at a rate of one detonation per week. The purpose of the proposed action is to generate data that the Navy would use to assess the survivability of SAN ANTONIO Class amphibious transport dock ships. According to the Navy, an entire manned ship must undergo an at-sea shock trial to obtain survivability data that are not obtainable through computer modeling and component testing on machines or surrogates. Navy ship design, crew training, and survivability lessons learned during previous shock trials, and total ship survivability trials, have proven their value by increasing a ship's ability to survive battle damage. Because marine mammals may be killed, injured or harassed incidental to conducting the FSST, regulations and an authorization under section 101(a)(5)(A) of the MMPA are warranted.

Background

According to the Navy, each new class of surface ships must undergo realistic survivability testing to assess the survivability of the hull and the ship's systems, and to evaluate the ship's capability to protect the crew from an underwater explosion. The Navy has developed the shock trial to meet its obligation to perform realistic survivability testing. A shock trial consists of a series of underwater detonations that propagate a shock wave through the ship's hull under deliberate and controlled conditions. The effects of the shock wave on the ship's hull, equipment, and personnel safety features are then evaluated. This information is used by the Navy to validate or improve the survivability of the SAN ANTONIO Class, thereby reducing the risk of injury to the crew, and damage to or loss of a ship. The proposed shock trial qualifies as a military readiness activity as defined in Section 315(f) of Public Law 107–314 (16 USC 703 note).

The Navy proposes that the MESA VERDE (LPD 19), would be exposed to a series of underwater detonations. The MESA VERDE is the third ship in the new SAN ANTONIO (LPD 17) Class of nine planned amphibious transport dock ships being acquired by the Navy to meet Marine Air-Ground Task Force lift requirements. The ships of the SAN ANTONIO Class will be replacements for four classes of amphibious ships-two classes that have reached the end of their service life (LPD 4 and LSD 36) and two classes that have already been retired (LKA 113 and LST 1179)-replacing a total of 41 ships. These new LPDs are a means to support Marine Expeditionary Brigade (MEB) amphibious lift requirements. The mission of the SAN ANTONIO Class will be to operate in various scenarios, as a member of a three-ship, forward-deployed Amphibious Ready Group with a Marine Expeditionary Unit; in a variety of Expeditionary Strike Group scenarios; or as a member of a 12–14 ship MEB.

The FSST is proposed to take place at a location at least 70 km (38 nm) off-shore of Naval Station Mayport within the Navy's Jacksonville/Charleston Operating Area over a four-week period in the summer of 2008, based on the Navy's operational and scheduling requirements for the ship class. The ship and the explosive charge will be brought closer together with each successive detonation to increase the severity of the shock to the ship. This approach ensures that the maximum shock intensity goal is achieved in a safe manner. A nominal 4,536 kilogram (kg) (10,000 pound (lb)) explosive charge would be used. This charge size is used to ensure that the entire ship is subjected to the desired level of shock intensity. The use of smaller charges would require many more detonations to excite the entire ship to the desired shock intensity level. The proposed shock trial would be conducted at a rate of one detonation per week to allow time to perform detailed inspections of the ship's systems prior to the next detonation.

Three detonations would be required to collect adequate data on survivability and vulnerability. The first detonation would be conducted to ensure that the ship's systems are prepared for the subsequent higher severity detonations. The second detonation would be conducted to ensure the safety of the ship's systems during the third detonation, and to assess the performance of system configuration changes implemented as a result of the first detonation. The third and most severe detonation would be conducted to assess system configuration changes from the previous detonations. In the event that one of the three detonations does not provide adequate data, a fourth detonation may be required. As a result, the Navy's proposed action will be described in the remainder of this document as consisting of up to four detonations.

The operations vessel would tow the explosive charge in parallel with the MESA VERDE using the parallel tow method, as illustrated in Figure 1 of the Navy's LOA application. The charge would be located approximately 610 meters (m) (2,000 feet (ft)) behind the operations vessel and suspended from a pontoon at a depth of 61 m (200 ft) below the water surface. Co-located with the charge would be a transponder used to track the exact location of the charge prior to detonation. After each detonation, the shock trial array and rigging debris would be recovered.

For each detonation, the MESA VERDE would cruise in the same direction as the operations vessel at a speed of up to 13 kilometers per hour (km/h) (up to 7 knots (kts or nm/hr)) with the charge directly abeam of it. After each detonation, an initial inspection for damage would be performed. The MESA VERDE would return to the shore facility for a detailed post-detonation inspection and to prepare for the next detonation. For each subsequent detonation, the MESA VERDE would move closer to the charge to experience a more intense shock level.

Comments and Responses

On October 26, 2007 (72 FR 60823), NMFS published a notice of receipt of the Navy's application for an incidental take authorization and requested comments, information and suggestions concerning the request and the structure and content of regulations to govern the take. During the 30–day public comment period, NMFS did not receive any comments.

Affected Marine Mammals

Up to 26 marine mammal species may be present in the waters off Mayport, FL, including 4 mysticetes, 19 odontocetes, 2 pinnipeds, and 1 sirenian (manatee). Mysticetes are unlikely to occur in this area during the spring or summer time period. Odontocetes may include the sperm whale, dwarf and pygmy sperm whale, 4 species of beaked whales, and 11 species of dolphins and porpoises. For detailed information on marine mammal species, abundance, density,

and the methods used to obtain this information, reviewers are requested to refer to either the Navy's LOA application or Draft Environmental Impact Statement/Overseas Environmental Impact Statement for the Shock Trial of the MESA VERDE (Draft EIS/OEIS)(see the discussion on NEPA compliance later in this proposed rule for information on the availability of the Navy's NEPA documents).

Potential Impacts to Marine Mammals

Potential impacts on the marine mammal species known to occur in the area offshore of Mayport, FL from shock testing include both lethal and non-lethal injury, as well as harassment. The Navy believes that it is very unlikely that injury will occur from exposure to the chemical by-products released into the surface waters due to the low initial concentrations and rapid dispersion of such by-products. The Navy also believes that no permanent alteration of marine mammal habitat would occur as a result of the detonations. While the Navy does not anticipate any lethal takes would result from these detonations, calculations (including mitigation effectiveness) indicate that the Mayport site has the potential to result in up to 1 take by mortality, 2 Level A harassment takes (injuries), and 282 takings by Level B (behavioral) harassment across all species. Calculations by species are provided in the Navy's LOA application and summarized here.

Mortality and Injury

Marine mammals can be killed or injured by underwater explosions due to the response of air cavities, such as the lungs and bubbles in the intestines, to the shock wave (Office of the Surgeon General, 1991). The criterion for mortality used by the Navy in its analysis for the proposed MESA VERDE shock trial is the onset of extensive lung hemorrhage. In this analysis, the acoustic exposure associated with onset of severe lung injury (extensive lung hemorrhage) is used to define the outer limit of the zone within which species are considered to experience mortality. Extensive lung hemorrhage is considered debilitating and potentially fatal as a result of air embolism or suffocation. For the predicted impact ranges, representative marine mammal body sizes (mean body mass values) and average lung volumes were established, relative densities identified, and species were subsequently grouped by size (i.e., mysticetes and sperm whales, large odontocetes, small odontocetes). Thresholds and associated ranges for the onset of severe lung injury are variable for each of these groups depending upon their mean body mass and lung volume. Tables 4 and 5 in the Navy's LOA application provide a list of the criterion with thresholds and ranges for each grouping by mean body mass.

In the Navy's analysis, all marine mammals within the calculated radius for onset of extensive lung injury (i.e., onset of mortality) are counted as lethal takes. The range at which onset of extensive lung hemorrhage is expected to occur is greater than the ranges at which 50 percent to 100 percent lethality would occur from closest proximity to the charge or from presence within the bulk cavitation region (see Tables 4 and 5 of the Navy's LOA application). The region of bulk cavitation is an area near the water surface above the detonation point in which the reflected shock wave creates a region of cavitation within which smaller animals would not be expected to survive. Because the range for onset of extensive lung hemorrhage for smaller animals exceeds the range for bulk cavitation and all more serious injuries, all smaller animals within the region of cavitation and all animals (regardless of body mass) with more serious injuries than onset of extensive lung hemorrhage are accounted for in the lethal take estimate. The calculated maximum ranges for onset of extensive lung hemorrhage depend upon animal body mass, with smaller animals having the greatest potential for impact, as well as water column temperature and density. Appendix D of the MESA VERDE Draft EIS/OEIS presents calculations that estimate the range for the onset of extensive lung hemorrhage.

For injury (Level A harassment), the criterion applied is permanent threshold shift (PTS), a non-recoverable injury that must result from the destruction of tissues within the auditory system (e.g., tympanic membrane rupture, disarticulation of the middle ear ossicles, and hair-cell damage). Onset-PTS is indicative of the minimum level of injury that can occur due to sound exposure. All other forms of trauma would occur closer to the sound source than the range at which the onset of PTS occurs. In this analysis, the smallest amount of PTS (onset-PTS) is taken to be the indicator for the smallest degree of injury that can be measured. The acoustic exposure associated with onset-PTS is an energy flux density (EL) of 198 decibel (dB) re 1 μPa^2–sec or greater for all mean body mass sizes. Appendix D of the MESA VERDE Draft EIS/OEIS presents calculations that estimate the range for the onset of PTS in blast-exposed marine mammals.

Incidental Level B Harassment

In the Navy's LOA request and the accompanying MESA VERDE Draft EIS/OEIS, temporary threshold shift (TTS) is used as the criterion for Level B (behavioral) harassment for marine mammals. As the Navy explains in the Draft OEIS/EIS:

> Some physiological effects can occur that are non-injurious but which can potentially disrupt the behavior of a marine mammal. These include temporary distortions in sensory tissue that alter physiological function but which are fully recoverable without the requirement for tissue replacement or regeneration. For example, an animal that experiences a temporary reduction in hearing sensitivity suffers no injury to its auditory system, but may not perceive some sounds due to the reduction in sensitivity. As a result, the animal may not respond to sounds that would normally produce a behavioral reaction. This lack of response qualifies as a disruption of normal behavioral patterns-the animal is impeded from responding in a normal manner to an acoustic stimulus (DoN, 2007b).

As explained in previous incidental take authorizations for explosions, the smallest measurable amount of TTS (onset-TTS) is taken as the best indicator for Level B (behavioral) harassment. Because it is considered non-injurious, the acoustic exposure associated with onset-TTS is used to define the outer limit of the range within which marine mammal species are predicted to experience harassment attributable to physiological effects. This follows from the concept that hearing loss potentially affects an animal's ability to react normally to the sounds around it; it potentially disrupts normal behavior by preventing it from occurring. Therefore, the potential for TTS qualifies as a Level B harassment that is mediated by physiological effects upon the auditory system.

In this analysis, a dual criterion for onset-TTS has been developed by the Navy: (1) an energy-based TTS criterion of 183 dB re 1 μPa^2–sec EL, and (2) 224 dB re 1 microPa (23 psi) received peak pressure. If either threshold is met or exceeded, TTS is assumed to have occurred. The thresholds are primarily based on cetacean TTS data from Finneran *et al.* (2002). Since these impulsive sound exposures are similar to the sounds of interest for this analysis, they provide the data that are most directly relevant to this action. The predicted impact ranges applied the more stringent criterion, 183 dB re 1 $microPa^2$–sec weighted energy flux density level.

Corresponding TTS ranges are listed in Table 5 in the Navy's LOA application. For onset-TTS, the more conservative of the two criteria was

chosen by the Navy for determining the range that defined the impact zone, regardless of water depth. Expected numbers of marine mammals within these radii were calculated using mean densities from Appendix B of the MESA VERDE Draft EIS/OEIS. Mean density values were previously adjusted to account for submerged (undetectable) individuals. Because the range defining the zone in which onset-TTS is predicted is much larger than the range corresponding to mortality or injury, more individuals and more species could be affected. Marine mammal species historically present at or near the proposed Mayport location, but not seen during aerial surveys used to develop density estimates (i.e., fin, humpback, minke, sperm, and North Atlantic right whales, and several dolphin species), were not taken into account in these calculations. The results for individual species were rounded to the nearest whole number and then summed. For summations which were less than 0.5, calculations were rounded down to zero (see MESA VERDE Draft EIS/OEIS, Appendix C).

Table 1 (table 7 in the Navy's LOA application) summarizes the mortality, injury, and harassment exposure estimates in summer, for the proposed Mayport location. The Navy estimates that for offshore Mayport, FL in summer 1 marine mammal (a bottlenose dolphin) will be killed and 2 injured. Estimated numbers of marine mammals predicted to experience Level B harassment are 282 individual marine mammals at Mayport, FL in the summer. Results for individual species were rounded up to the nearest whole number.

TABLE 1: EXPOSURE ESTIMATES AT THE PROPOSED MAYPORT LOCATION IN SUMMER

Summer - Number of Individuals (Four detonations, with protective measures)						
	Mortality		Injury		Harassment	
	Calc.	Round	Calc.	Round	Calc.	Round
MARINE MAMMALS						
Minke whale	0.000	0	0.000	0	0.000	0
North Atlantic right whale	0.000	0	0.000	0	0.000	0
Atlantic spotted dolphin	0.133	0	0.321	0	71.706	72
Beaked whales	0.016	0	0.212	0	7.039	7
Bottlenose dolphin	0.508	1	1.227	1	110.124	110
Common dolphin	0.000	0	0.000	0	0.000	0
Dwarf/pygmy sperm whale	0.087	0	0.209	0	9.147	9
False killer whale	0.000	0	0.003	0	0.159	0
Pilot whale	0.006	0	0.078	0	5.568	6
Risso's dolphin	0.370	0	0.894	1	62.241	62
Rough-toothed dolphin	0.000	0	0.001	0	0.000	0
Spinner dolphin	0.096	0	0.233	0	16.266	16
Total - Marine Mammals		**1**		**2**		**282**

Potential Impact on Marine Mammal Habitat

As described in the Draft EIS/OEIS, detonations would have only short-term, localized impacts on water column physical, chemical, and biological characteristics. No lasting or significant impact on marine mammal habitat is anticipated, and no restoration would be necessary. Therefore, marine mammal habitat would not be affected.

Proposed Mitigation and Monitoring Measures

The operational site for the proposed shock trial off Mayport, FL would be a 3.5–nm (6.5–km) radius Safety Range centered on the explosive charge. The concept of Safety Range is an integral part of the Navy's protective measures plan, the purpose of which is to prevent death and injury to marine mammals (and sea turtles). The Safety Range for the Mayport location would be greater than the predicted maximum ranges for mortality and injury associated with detonation of a 4,536 kg (10,000 lb) explosive (see Table 5 of the Navy's LOA application).

The Navy's proposed action includes mitigation and monitoring that would minimize risk to marine mammals. (Mitigation measures for sea turtles have been addressed in the Navy's Draft EIS/OEIS and will be addressed through consultation under the Endangered Species Act (ESA)). The mitigation and monitoring measures to minimize risk to marine mammals are as follows:

(1) Through pre-detonation aerial surveys, the Navy will select a primary and two secondary test sites within the test area where, based on the results of aerial surveys conducted one to two days prior to the first detonation, observations indicate that marine mammal populations are the lowest;

(2) Pre-detonation aerial monitoring will be conducted on the day of each detonation to evaluate the primary test site and verify that the 3.5 nm (6.5 km) Safety Range is free of visually detectable marine mammals (and other critical marine life). If marine mammals are detected in the primary test area, the Navy will survey the secondary areas for marine mammals, and may move the shock test to one of the other two sites;

(3) Independent marine mammal biologists will visually monitor the Safety Range by air (3 observers), onboard the MESA VERDE (6 observers) and onboard the MART support vessel before each test and postpone detonation if any marine mammal is detected within the Safety Range of 3.5 nm (6.5 km);

(4) A detonation will not occur if an ESA-listed marine mammal is detected within the Safety Range, and subsequently cannot be detected. If a North Atlantic right whale is seen, detonation will not occur until the animal is positively relocated outside the Safety Range and at least one additional aerial monitoring of the Safety Range shows that no other right whales are present;

(5) Detonation will not occur if the sea state exceeds 3 on the Beaufort scale (i.e., whitecaps on 33 to 50 percent of surface; 0.6 m (2 ft) to 0.9 m (3 ft) waves), or the visibility is not 5.6 km (3 nm) or greater, and/or the aircraft ceiling (i.e., vertical visibility) is not 305 m (1,000 ft) or greater;

(6) Detonation will not occur earlier than 3 hours after sunrise or later than

3 hours prior to sunset to ensure adequate daylight for pre- and post-detonation monitoring; and

(7) The area will be monitored by observers onboard the MART vessel and by aircraft observers for 48 hours after each detonation, and for 7 days following the last detonation, to find, document and track any injured or dead animals. The aerial survey would search for a minimum of 3 hrs/day; the MART observers would monitor during all daylight hours. If post-detonation monitoring shows that marine mammals were killed or injured as a result of the test, or if any marine mammals are observed in the Safety Range immediately after a detonation, NMFS will be notified immediately and detonations will be halted until procedures for subsequent detonations can be reviewed by NMFS and the Navy and changed as necessary.

More detailed descriptions of the protocols for mitigation and monitoring the shock test can be found in Section 5 of the Navy's Draft EIS/OEIS.

Proposed Reporting Requirements

Within 120 days of the completion of shock testing the MESA VERDE, the Navy will submit a final report to NMFS. This report will include the following information: (1) date and time of each of the detonations; (2) a detailed description of the pre-test and post-test activities related to mitigating and monitoring the effects of explosives detonation on marine mammals; (3) the results of the monitoring program, including numbers by species/stock of any marine mammals noted injured or killed as a result of the detonations and an estimate of the number of marine mammals that may have been harassed due to undetected presence within the Safety Range (based on density estimates); and (4) results of coordination with coastal marine mammal/sea turtle stranding networks.

Preliminary Determinations

Based on the scientific analyses detailed in the Navy's LOA application and further supported by information and data contained in the Navy's Draft EIS/OEIS for the MESA VERDE shock trial and summarized in this proposed rule, NMFS has preliminarily determined that the incidental taking of marine mammals resulting from conducting this FSST would have a negligible impact on the affected marine mammal species or stocks. While NMFS believes that detonation of three to four 4,536–kg (10,000–lb) charges may affect some marine mammals, the latest abundance and seasonal distribution estimates support the finding that the lethal taking of a single bottlenose dolphin, the injury of one bottlenose dolphin and one Risso's dolphin and the Level B harassment of 282 small whales and dolphins will have a negligible impact on the affected populations of marine mammals inhabiting the waters of the U.S. Atlantic Coast. Preliminarily, NMFS concurs with the U.S. Navy, as provided in its LOA application and Draft EIS/OEIS, that impacts can be mitigated by mandating a conservative safety range for marine mammal exclusion, incorporating aerial and shipboard monitoring efforts in the program both prior to, and after, detonation of explosives, and provided detonations are not conducted whenever marine mammals are either detected within the 3.5–nm (6.5–km) Safety Range (or may enter the Safety Range at the time of detonation), or if weather and sea conditions preclude adequate aerial surveillance. Since the potential taking will not result in more than a single mortality and the incidental harassment of 284 marine mammals (including 2 injuries), the potential taking will have only a negligible impact on these stocks. Implementation of required mitigation and monitoring measures will result in the least practicable adverse impact on marine mammal stocks. Therefore, NMFS has preliminarily determined that the requirements of section 101(a)(5)(A) of the MMPA have been met. Finally, the FSST operation will not have an unmitigable adverse impact on the availability of marine mammals for subsistence uses identified in MMPA section 101(a)(5)(A)(i) (16 USC 1371(a)(5)(A)(i)).

National Environmental Policy Act (NEPA)

The Navy has released a Draft EIS under NEPA for the MESA VERDE Shock Trial that was available for public review and comment until December 10, 2007. NMFS is a cooperating agency, as defined by the Council on Environmental Quality (40 CFR 1501.6), in the preparation of this Draft EIS/OEIS. NMFS is currently reviewing the Navy's NEPA documents and will either adopt the Navy's Final EIS/OEIS for this shock trial or prepare its own NEPA document prior to making a determination on the issuance of a final rule and an LOA thereunder. The Navy's Draft EIS/OEIS is available for viewing or downloading at: *http://www.mesaverdeeis.com*.

ESA

On June 12, 2007, the Navy submitted a Biological Assessment to NMFS to initiate consultation under section 7 of the ESA for the MESA VERDE shock trial. The consultation, which will also include this proposed rule, will be concluded prior to issuance of a final rule.

Classification

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

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this action would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. If implemented, this proposed rule would affect only the U.S. Navy which, by definition, is not a small business. Because of this certification, a regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: April 7, 2008.

Samuel D. Rauch III,

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

For reasons set forth in the preamble, 50 CFR part 216 is proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Subpart O is added to read as follows:

Subpart O—Taking of Marine Mammals Incidental to Shock Testing the USS MESA VERDE (LPD–19) by Detonation of Conventional Explosives in the Offshore Waters of the U.S. Atlantic Coast

Sec.

216.161 Specified activity and incidental take levels by species.
216.162 Effective dates.
216.163 Mitigation.
216.164 Prohibitions.
216.165 Requirements for monitoring and reporting.
216.166 Modifications to the Letter of Authorization.

Subpart O—Taking of Marine Mammals Incidental to Shock Testing the USS MESA VERDE (LPD–19) by Detonation of Conventional Explosives in the Offshore Waters of the U.S. Atlantic Coast

§ 216.161 Specified activity and incidental take levels by species.

(a) Regulations in this subpart apply only to the incidental taking of marine mammals specified in paragraph (b) of this section by U.S. citizens engaged in the detonation of up to four 4,536 kg (10,000 lb) conventional explosive charges within the waters of the U.S. Atlantic Coast offshore Mayport, FL, for the purpose of conducting one full ship-shock trial (FSST) of the USS MESA VERDE (LPD 19) during the period of May 1 through September 30 only.

(b) The incidental take of marine mammals under the activity identified in paragraph (a) of this section is limited to the following species: Minke whale (*Balaenoptera acutorostrata*), dwarf sperm whale (*Kogia simus*); pygmy sperm whale (*K. breviceps*); pilot whale (*Globicephala macrorhynchus*); Atlantic spotted dolphin (*Stenella frontalis*); spinner dolphin (*S. longirostris*); bottlenose dolphin (*Tursiops truncatus*); Risso's dolphin (*Grampus griseus*); rough-toothed dolphin (*Steno bredanensis*); false killer whale (*Pseudorca crassidens*); Cuvier's beaked whale (*Ziphius cavirostris*), Blainville's beaked whale (*Mesoplodon densirostris*); Gervais' beaked whale (*M. europaeus*); and True's beaked whale (*M. mirus*).

(c) The incidental take of marine mammals identified in paragraph (b) of this section is limited to a total, across all species, of no more than 1 mortality or serious injury, 2 Level A harassments (injuries), and 282 takings by Level B behavioral harassment (through temporary threshold shift), except that the incidental taking by serious injury or mortality of species listed in paragraph (b) of this section that are also listed as threatened or endangered under the Endangered Species Act, is prohibited.

§ 216.162 Effective dates.

Regulations in this subpart are effective [*date 30 days after date of publication of the final rule in the FEDERAL REGISTER*] through [*date 5 years from date 30 days from date of publication of the final rule in the FEDERAL REGISTER*].

§ 216.163 Mitigation.

(a) Under a Letter of Authorization issued pursuant to § 216.106, the U.S. Navy may incidentally, but not intentionally, take marine mammals in the course of the activity described in § 216.161(a) provided all terms, conditions, and requirements of these regulations and such Letter of Authorization are met.

(b) The activity identified in § 216.161(a) of this part must be conducted in a manner that minimizes, to the greatest extent possible, adverse impacts on marine mammals and their habitat. When detonating explosives, the following mitigation measures must be implemented:

(1) If any marine mammals are visually detected within the designated 3.5 nm (6.5 km) Safety Range, detonation must be delayed until the marine mammals are positively reacquired outside the Safety Range either due to the animal(s) swimming out of the Safety Range or due to the Safety Range moving beyond the mammal's last verified location.

(2) If a North Atlantic right whale or other marine mammal listed under the Endangered Species Act is seen, detonation must not occur until the animal is positively reacquired outside the Safety Range and at least one additional aerial monitoring of the Safety Range shows that no other right whales or other listed marine mammals are present;

(3) If

(i) the sea state exceeds 3 on the Beaufort scale (i.e., whitecaps on 33 to 50 percent of surface; 2 ft (0.6 m) to 3 ft (0.9 m) waves),

(ii) the visibility is not 3 nm (5.6 km) or greater, and/or

(iii) the aircraft ceiling (i.e., vertical visibility) is not 1,000 ft (305 m) or greater, detonation must not occur until conditions improve sufficiently for aerial surveillance to be undertaken.

(4) If post-test surveys determine that a serious injury or lethal take of a marine mammal has occurred, (A) the Director, Office of Protected Resources, National Marine Fisheries Service must be notified within 24 hours of the taking determination, (B) the FSST procedures and monitoring methods must be reviewed in coordination with the National Marine Fisheries Service, and (C) appropriate changes to avoid future injury or mortality takings must be made prior to conducting the next detonation.

§ 216.164 Prohibitions.

The following activities are prohibited:

(a) The intentional taking of a marine mammal.

(b) The violation of, or failure to comply with, the terms, conditions, and requirements of this subpart or a Letter of Authorization issued under § 216.106.

§ 216.165 Requirements for monitoring and reporting.

(a) The holder of the Letter of Authorization is required to cooperate with the National Marine Fisheries Service and any other Federal, state or local agency with regulatory authority for monitoring the impacts of the activity on marine mammals. The holder must notify the Director, Office of Protected Resources, National Marine Fisheries Service at least 2 weeks prior to activities involving the detonation of explosives in order to satisfy paragraph (f) of this section.

(b) The holder of the Letter of Authorization must designate qualified on-site marine mammal observers (MMOs) to monitor the Safety Range for presence of marine mammals and to record the effects of explosives detonation on marine mammals that inhabit the Navy's Jacksonville/Charleston Operating Area offshore of Mayport, Florida.

(c) The test area must be monitored by trained MMOs and other trained individuals, 48–72 hours prior to a scheduled detonation, on the day of detonation, and for a period of time specified in the Letter of Authorization after each detonation. Monitoring shall include, but not necessarily be limited to, aerial and vessel surveillance sufficient to ensure that no marine mammals are within the designated Safety Range prior to or at the time of detonation.

(d) Under the direction of a certified marine mammal veterinarian, examination and recovery of any dead or injured marine mammals will be conducted in accordance with protocols and best practices of the NOAA Health and Stranding Response Program. Necropsies will be performed and tissue samples taken from any dead animals. After completion of the necropsy, animals not retained for shoreside examination will be tagged and returned to the sea. The presence of uninjured marine mammals in the vicinity of the Safety Range will also be documented and reported.

(e) Activities related to the monitoring described in paragraphs (c) and (d) of this section, including the retention of marine mammals, may be conducted without the need for a separate scientific research permit. The use of retained marine mammals for scientific research other than shoreside examination must be authorized pursuant to subpart D of this part.

(f) In coordination and compliance with appropriate Navy regulations, at its

discretion, the National Marine Fisheries Service may place an observer on any ship or aircraft involved in marine mammal monitoring either prior to, during, or after explosives detonation.

(g) A final report must be submitted to the Director, Office of Protected Resources, no later than 120 days after completion of shock testing the USS MESA VERDE (LPD–19). This report must contain the following information:

(1) Date and time of all detonations conducted under the Letter of Authorization.

(2) A description of all pre-detonation and post-detonation activities related to mitigating and monitoring the effects of explosives detonation on marine mammal populations.

(3) Results of the monitoring program, including numbers by species/stock of any marine mammals noted injured or killed as a result of the detonation due to presence within the designated Safety Range.

(4) Results of coordination with coastal marine mammal/sea turtle stranding networks.

§ 216.166 Modifications to the Letter of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification, including withdrawal or suspension, to the Letter of Authorization issued pursuant to § 216.106 and subject to the provisions of this subpart shall be made until after notice and an opportunity for public comment.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in§ 216.151(b), the Letter of Authorization may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the **Federal Register** subsequent to the action.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 080130104–8105–01]

RIN 0648–AW46

Atlantic Highly Migratory Species; Renewal of Atlantic Tunas Longline Limited Access Permits; and, Atlantic Shark Dealer Workshop Attendance Requirements

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would amend the regulations governing the renewal of Atlantic tunas longline limited access permits (LAPs) and amend the workshop attendance requirements for businesses issued Atlantic shark dealer permits. Specifically, the proposed regulatory changes would allow for the renewal of Atlantic tunas longline LAPs that have been expired for more than one year, if the most recent permit holder of record originally qualified for the Atlantic tunas LAP, or if the most recent permit holder of record subsequently obtained a permit by transfer, and has maintained the associated swordfish and shark LAPs through timely renewal. Also, this rule proposes to amend the Atlantic Shark Identification Workshop requirements by: specifying that a workshop certificate be submitted and displayed for each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade, rather than from each location listed on their dealer permit; and requiring that a copy of a valid workshop certificate be possessed in a truck or other conveyance serving as an extension of a dealer's business.

DATES: Written comments on the proposed rule must be received by May 12, 2008. Public hearings will be held in May of 2008. See the preamble of this notice for specific dates, times, and locations.

ADDRESSES: Written comments on the proposed rule may be submitted to Richard A. Pearson, Fishery Management Specialist, Highly Migratory Species Management Division. Please submit comments using any of the following methods:

• Federal e-Rulemaking Portal: *http://www.regulations.gov*. Include in the subject line the following identifier: ''RIN 0648–AW46.''

• Mail: NMFS HMS Management Division, 263 13th Avenue South, Saint Petersburg, FL, 33701. Please mark the outside of the envelope ''Comments on Proposed Tuna Permits/Workshops Rule.''

• Fax: (727)824–5398.

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 (e.g., 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.

Related documents, including a 2007 Final Environmental Assessment (EA) and Final Rule (72 FR 31688, June 7, 2007) implementing revised vessel upgrading regulations for vessels concurrently issued Atlantic tunas longline, swordfish, and shark LAPs; and the 2006 Final Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP) and its Final Rule (71 FR 58058, October 2, 2006) implementing Atlantic Shark Identification Workshops are available from the HMS Management Division website at: *http://www.nmfs.noaa.gov/sfa/hms*, or by contacting Richard A. Pearson (see **FOR FURTHER INFORMATION CONTACT**).

The public hearings will be held in Gloucester, MA; Saint Petersburg, FL; and Silver Spring, MD. See the preamble of this notice for specific dates, times, and locations.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, by phone: 727–824–5399; by fax: 727–824–5398.

SUPPLEMENTARY INFORMATION:

Background

Atlantic tuna and swordfish fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). Atlantic sharks are managed under the authority of the Magnuson-Stevens Act. The Consolidated HMS FMP is implemented by regulations at 50 CFR part 635.

Renewal of Atlantic Tunas Longline LAPs

LAPs were first implemented in HMS fisheries in 1999, primarily to

rationalize fleet harvesting capacity in Atlantic swordfish and shark fisheries with the available quota allocation for these species, and to facilitate other fishery management measures implemented at the time. The Atlantic tunas longline LAP was established because of the likelihood of encountering swordfish and sharks when fishing with pelagic longline (PLL) gear for Atlantic tunas, and vice-versa. In recognition of the interrelationship between these longline fisheries, the Atlantic tunas longline LAP complemented management measures in the swordfish and shark fisheries.

Since 1999, vessel owners have been required to simultaneously possess three permits (Atlantic tunas longline; swordfish directed or incidental; and, shark directed or incidental) in order to retain Atlantic tunas caught with longline gear, or to retain swordfish caught with any gear other than handgear. An Atlantic tunas longline LAP is only considered valid, or useable, if the vessel has also been issued both a shark LAP and a swordfish LAP (other than handgear). Similarly, a swordfish LAP (other than handgear) is only considered valid, or useable, when a vessel has also been issued both a shark LAP and an Atlantic tunas longline LAP. The current regulations for each of these permits specify that only persons holding non-expired LAPs in the preceding year are eligible to renew those permits.

During the recent implementation of revised vessel upgrading restrictions for PLL vessels (72 FR 31688, June 7, 2007), NMFS found that a number of vessel owners had inadvertently allowed their Atlantic tunas longline LAPs to lapse for more than one year, although their accompanying swordfish and shark LAPs had been maintained through timely renewal. This may have been because of differences in the operational aspects and renewal procedures between swordfish and shark LAPs, and Atlantic tunas longline LAPs. The Atlantic tunas longline permit renewal system was originally developed as a self-service, web-based electronic system that was administered by an off-site contractor for the primary purpose of issuing other open access permits. It was modified for the issuance of Atlantic tunas longline LAPs by requiring the applicant to either call a contracted customer service office (if there are no changes to the permit), or to call NMFS' Northeast Regional HMS office (if there are changes to the permit). The information is then entered online by the contractor or by NMFS, and the permit is issued using the on-line website. In contrast, swordfish and shark LAPs are administered and renewed by submitting paper applications to NMFS' Southeast Regional permit office. A significant difference between the two systems is that the Atlantic tunas longline LAP cannot be held in ''no vessel'' status. ''No vessel'' status allows a permit holder to retain a permit even if they no longer own a vessel. This is not the case with Atlantic tunas longline LAPs which cannot be renewed without specifying a vessel. An Atlantic tunas longline permit holder must either move the Atlantic tunas longline LAP to a replacement vessel or forfeit the permit. Many vessel owners were not aware of these options, or were confused by them, and let their Atlantic tunas longline LAP permit expire because they no longer owned a vessel even though they thought they remained eligible to renew the Atlantic tunas longline LAP.

Another difference between the Atlantic tunas longline LAP and swordfish and shark LAPs is that the tunas longline LAP does not have a unique permit number associated with it that stays unchanged through time, whereas swordfish and shark LAPs do. Atlantic tunas permit numbers remain directly associated with a vessel's Coast Guard documentation or state registration number. Because of this, ''ownership'' of the Atlantic tunas longline LAP has been more difficult to track over time because the permit number changes with each transfer of the Atlantic tunas longline LAP to another vessel.

The operational constraints, or differences, associated with the Atlantic tunas longline LAP permit system described above were not fully recognized until revised vessel upgrading regulations were implemented through a recent rulemaking. Specifically, the historical practices that had been used to adapt the electronic web-based Atlantic tunas permit system to the HMS limited access permit regulations were found to be deficient when NMFS was determining, in September 2007, which permit holders were issued, or were eligible to renew, an Atlantic tunas longline LAP. Due to these systematic operational constraints, the regulations governing the renewal of Atlantic tunas longline LAPs were administered differently than for swordfish and shark LAPs prior to September 2007. Furthermore, based upon public comment and statements received at HMS Advisory Panel (AP) meetings and other hearings, NMFS became aware of continuing uncertainty in the fishing industry regarding the renewal, issuance, and eligibility for the Atlantic tunas longline LAP and the applicability of the one-year renewal requirement. This proposed rule would amend the current regulations to better reflect the operational capabilities of the Atlantic tunas longline LAP permit renewal system and reduce the potential for future confusion.

NMFS has identified approximately 40 vessels/permit holders that originally qualified for the Atlantic tunas longline LAP, or were subsequently transferred the permit, but are no longer eligible to renew the permit because it has been expired for more than one year. Most of these vessel/permit holders have concurrently been issued, or are eligible to renew, both their Atlantic swordfish LAP (other than handgear) and their shark LAP. However, because these permit holders are not eligible to renew their Atlantic tunas longline LAP, they are not allowed to retain any Atlantic swordfish, or any Atlantic tunas captured on longline gear. This exacerbates a situation where the number of available Atlantic tunas longline LAPs is insufficient to match the number of available swordfish and shark incidental or directed permits, thus rendering many swordfish permits essentially unusable because all three permits are required to retain swordfish (with any gear other than handgear).

This proposed rule would amend the HMS regulations to remove the one-year renewal timeframe for Atlantic tunas longline LAPs. It would allow NMFS to issue Atlantic tunas longline LAPs to the most recent permit holder of record, even if they have failed to renew it within one year of expiration, provided that their associated swordfish and shark LAPs have been maintained through timely renewal and all other current requirements for permit renewal are met. The proposed rule would continue to specify that only persons holding non-expired swordfish and shark LAPs in the preceding year would be eligible to renew those permits. Also, the requirement to possess swordfish and shark LAPs in order to obtain an Atlantic tunas longline LAP would remain in effect. Finally, the current requirement to possess all three valid permits (incidental or directed swordfish and shark permits, and Atlantic tunas longline permit) to fish for tunas with PLL gear and to retain commercially-caught swordfish (other than with a commercial swordfish handgear permit) would remain unchanged. The proposed measures would not increase the number of Atlantic tunas longline LAPs beyond the number of permit holders that currently

possess, or are eligible to renew, both their swordfish and shark LAPs.

This proposed action is necessary to help ensure that an adequate number of complementary Atlantic tunas longline LAPs are available for swordfish and shark commercial permit holders to fish legally for Atlantic swordfish and tunas with PLL gear. The proposed measures would reinforce recent efforts by NMFS to ''revitalize'' the swordfish and tunas PLL fishery. Consistent with the Magnuson-Stevens Act and ATCA, this proposed rule would also help to provide a reasonable opportunity for U.S. vessels to more fully harvest the domestic swordfish quota, which is derived from the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), in recognition that the North Atlantic swordfish stock is almost fully rebuilt (B = 0.99Bmsy). In doing so, the proposed action could help the United States retain its historic swordfish quota allocation at ICCAT, as domestic landings have been well below that quota in recent years.

Atlantic Shark Dealer Workshop Requirements

Current HMS regulations at 50 CFR 635.8 require that permitted Atlantic shark dealers attend an Atlantic Shark Identification Workshop and receive workshop certification. The purpose of this requirement is to improve the identification and reporting of shark species by dealers for accurate quota monitoring and stock assessments. If a dealer attends and successfully completes a workshop, the dealer will receive workshop certificates for each location listed on their Atlantic shark dealer permit. If the dealer sends a proxy, they must send a proxy for each location listed on the Atlantic shark dealer permit. Atlantic shark dealers may not renew their Atlantic shark dealer permit without submitting either a dealer or proxy certificate for each location listed on their Atlantic shark dealer permit. Additionally, Atlantic shark dealers may not ''first-receive'' shark products at a location unless a valid workshop certificate is on the premises of each place of business listed under the shark dealer permit. As initially discussed in the proposed rule for Amendment 2 for the Management of Atlantic Shark Fisheries (July 27, 2007; 72 FR 41392), and anticipated to be contained in the final rule, ''first-receive'' means to take immediate possession of fish, or any part of a fish, as they are offloaded from the owner or operator of a vessel for commercial purposes.

Since implementation of these requirements, NMFS has observed that some dealers may not be first receiving shark products at all of the locations listed on their permit, thus making it unnecessary to require shark workshop certification for those locations. These dealers have multiple locations listed on their Atlantic shark dealer permit, including those where they may not first receive shark products. For example, a dealer may purchase red snapper at one location, and shark at another location. However, the dealer's shark permit lists both of these locations as owned by the dealer, including the snapper-only site, making it necessary for workshop certification at both the shark site and the snapper site. It is not currently feasible, for both technical and administrative reasons, to modify the NMFS permits database to accommodate dealers who have different locations where they first receive different species.

To remedy this situation, NMFS is proposing a minor amendment to the HMS regulations which would specify that, when applying for or renewing an Atlantic shark dealer permit, an applicant must submit an Atlantic Shark Identification Workshop certificate (dealer or proxy) for each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade, rather than for each location listed on their dealer permit. This proposed action would eliminate the need for a dealer to send a proxy to a workshop to obtain a certificate for a business location that does not first receive Atlantic shark products for the sole purpose of renewing their Atlantic shark dealer permit. The requirement to display an Atlantic Shark Identification Workshop certificate would similarly only be required at locations listed on the dealer permit where sharks are first received. Additionally, NMFS proposes to require extensions of a dealer's business, such as trucks and other conveyances, to possess a copy of a valid dealer or proxy certificate issued to a place of business covered by the dealer permit. This requirement would allow trucks and other conveyances to be immediately identified as extensions of a NMFS certified place of business which is eligible to first receive Atlantic sharks. With these minor amendments, the objective of improved identification and reporting of shark species is expected to continue, while the impact on dealers may be lessened.

Clarification of Buoy Gear Usage

NMFS proposes to make a technical clarification to refine the regulatory language describing buoy gear usage. It would reinforce existing language in the ''prohibitions'' section of the HMS regulations regarding which permit holders are authorized to utilize buoy gear. This clarification would not result in any substantive change to the buoy gear usage requirements. NMFS is proposing this minor change to address questions and comments received from constituents and to ensure consistency within the HMS regulations.

Request for Comments

Comments on this proposed rule may be submitted at public hearings, or via the federal e-Rulemaking portal, mail, or fax (see **ADDRESSES**). Written comments on the proposed rule must be received by May 12, 2008.

Public Hearings

NMFS will hold three public hearings to receive comments from fishery participants and other members of the public regarding this proposed rule. These hearings will be physically accessible to people with disabilities. Request for sign language interpretation or other auxiliary aids should be directed to Richard A. Pearson at (727) 824–5399 at least five days prior to the hearing date. At the beginning of each meeting, a representative of NMFS will explain the ground rules (e.g., alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they register to speak; and the attendees should not interrupt one another, etc.). The NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment, if they so choose. Attendees are expected to respect the ground rules, and, if they do not, they will be asked to leave the meeting. For individuals unable to attend a hearing, NMFS also solicits written comments on the proposed rule (see **DATES** and **ADDRESSES**).

The hearing dates and locations are:

1. May 1, 2008, 3:30 - 5:30 p.m., NMFS Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930.

2. May 6, 2008, 6 - 8 p.m., NMFS Southeast Regional Office, 263 13th Avenue South, Saint Petersburg, FL 33701.

3. May 7, 2008, 3 - 5 p.m., NOAA Auditorium, 1301 East West Highway, Silver Spring, MD 20910.

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 Consolidated HMS 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 purposes of Executive Order 12866.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA 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 at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

In compliance with Section 603(b)(1) and (2) of the Regulatory Flexibility Act, the purpose of this proposed rulemaking is, consistent with the Magnuson-Stevens Act and ATCA, to synchronize the number of available limited access swordfish, shark, and tunas longline permits to help provide a reasonable opportunity for U.S. vessels to harvest quota allocations recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT), in recognition of the improved stock status of North Atlantic swordfish (B = 0.99Bmsy). The proposed action regarding the renewal of Atlantic tunas longline LAPs that have been expired for more than one year is necessary to help ensure that an adequate number of complementary Atlantic tunas longline LAPs are available for swordfish and shark LAP holders to fish legally for Atlantic swordfish and tunas with PLL gear.

The proposed amendment regarding attendance requirements at Atlantic Shark Identification Workshops would specify that, for permit renewal, a dealer must submit an Atlantic Shark Identification Workshop certificate (dealer or proxy) for each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade, rather than from each location listed on their dealer permit. This would eliminate the need for a dealer to send a proxy to a workshop to obtain a certificate for a business location that does not first receive Atlantic shark products for the sole purpose of renewing their Atlantic shark dealer permit. The requirement to display an Atlantic Shark Identification Workshop certificate would similarly only be required at locations listed on the dealer permit where sharks are first received. The proposed measure is the preferred method to address this issue because it is not feasible, for both technical and administrative reasons, to modify the NMFS permits database to accommodate dealers having different locations where they first receive different species. Additionally, the proposed action would require extensions of a dealer's business, such as trucks and other conveyances, to possess a copy of a valid dealer or proxy certificate issued to a place of business covered by the dealer permit. This requirement would allow trucks and other conveyances to be immediately identified as extensions of a NMFS-certified place of business which is eligible to first receive Atlantic sharks. The identification and reporting of shark species would not be compromised, but impacts on dealers would be lessened.

Section 603(b)(3) requires agencies to provide an estimate of the number of small entities to which the rule would apply. The proposed action to modify permit renewal requirements for Atlantic tunas LAPs would most immediately impact approximately 40 vessel owners that are the most recent permit holders of record, but are currently not eligible to renew that permit because it has been expired for more than one year. Potentially, 245 vessel owners that are currently issued Atlantic tunas LAPs, as well as swordfish and shark LAPs, could be affected by this action if, in the future, they fail to renew their Atlantic tunas longline LAP within one year of expiration.

Prior to the effective date of the shark workshop certificate requirement (December 2007), there were 186 individual Atlantic shark dealer permits issued by NMFS. Fifty-six of these individual dealers had multiple locations listed on their permit (ranging from two to 11 locations). As of February 6, 2008, 67 shark dealers had been issued workshop certificates for all of their locations. NMFS has identified 108 shark dealers that have not been issued any certificates for any locations. Finally, 12 of the 56 dealers with multiple locations listed on their permit have been issued at least one certificate, but not certificates for all of the locations listed on their permit. Thus, under the current regulations, they are not eligible to renew their shark dealer permit. These 12 Atlantic shark dealers who have not been issued proxy certificates for all of their locations would be most immediately affected by the proposed action regarding attendance requirements at Atlantic Shark Identification Workshops. Potentially, any of the 56 shark dealers with multiple locations listed on their permit could be impacted by the proposed action. All of the aforementioned businesses are considered small business entities according to the Small Business Administration's standard for defining a small entity.

This proposed rule does not contain any new reporting, record keeping, or other compliance requirements (5 U.S.C. 603(c)(1)-(4)). Similarly, this proposed rule does not conflict, duplicate, or overlap with other relevant Federal rules (5 U.S.C. 603(b)(5).

One of the requirements of an IRFA, under Section 603 of the Regulatory Flexibility Act, is to describe any alternatives to the proposed rule that accomplish the stated objectives and that minimize any significant economic impacts (5 U.S.C. 603(c)). Additionally, the Regulatory Flexibility Act (5 U.S.C. 603 (c)(1)-(4)) lists four categories for alternatives that must be considered. These categories are: (1) establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage for small entities.

In order to meet the objectives of this proposed rule, consistent with the Magnuson-Stevens Act and ATCA, NMFS cannot exempt small entities or change the reporting requirements only for small entities. Thus, there are no alternatives that fall under the first and fourth categories described above. In addition, none of the alternatives considered would result in additional reporting or compliance requirements (category two above). NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act.

NMFS considered two different alternatives to modify the renewal procedures for the Atlantic tunas longline LAP. The impacts and justification for the selection of the preferred alternative are described below.

Alternative 1 for the renewal of Atlantic tunas longline LAPs (alternative 2.1.1 in the IRFA) is the No Action, or status quo alternative. Current HMS regulations at 50 CFR 635.4(m)(2) specify that only persons holding a non-expired Atlantic tunas longline LAP in the preceding year are

eligible to renew that permit. Under alternative 1, there would be no change in the existing regulations and, as such, no change in the current baseline economic impacts. However, the situation regarding the renewal of Atlantic tunas longline LAPs is unique. As discussed in the preamble, until September 2007, the regulations governing the renewal of the Atlantic tunas longline LAP were administered differently than for swordfish and shark LAPs. Since September 2007, the permit renewal regulations have been administered similarly. Thus, the No Action alternative would continue any existing economic impacts, but those impacts have only been in existence since September 2007.

The No Action alternative is not preferred because it has the largest associated adverse economic impacts. Without an Atlantic tunas longline LAP, a permit holder is prohibited from fishing for tunas with longline gear and from retaining swordfish, even if the vessel has been issued a directed or incidental swordfish permit. As many as 40 commercial fishing vessels that have historically participated in the PLL fishery would continue to be prohibited from participating in the fishery, harvesting the U.S. swordfish quota, and creating jobs. Resultant lossess to the overall economy of as much as $7,842,280 in annual gross revenues would continue to occur under this alternative. Also, between $200,000 and $721,839 in fleet-wide lost net revenues would continue to occur, distributed among the 40 vessels that are impacted by this alternative. Each individual vessel owner would continue to lose from $0 to potentially over $100,000 in net revenues annually, depending upon the profitability of their business.

Under Proposed Alternative 2 (preferred alternative 2.1.2 in the IRFA), NMFS would remove the one-year renewal timeframe for Atlantic tunas LAPs. This would allow the Agency to issue Atlantic tunas LAPs to the most recent permit holder of record, even if the permit had not been renewed within one year of expiration, provided that the associated swordfish and shark LAPs had been maintained through timely renewal and all other current requirements for permit renewal were met. The requirement to possess swordfish and shark LAPs in order to obtain an Atlantic tunas LAP would remain in effect. Also, current regulations which specify that only persons holding non-expired swordfish and shark LAPs in the preceding year are eligible to renew those permits would remain in effect.

Relative to the No Action alternative, removing the one-year renewal timeframe for Atlantic tunas LAPs is projected to potentially increase net and gross revenues for approximately 40 vessel owners who are otherwise qualified to fish for swordfish and tunas with longline gear, except that they are currently ineligible to renew their Atlantic tunas longline LAP. Overall gross economic benefits could potentially increase as much as $7,842,280 under this alternative, relative to the baseline. Also, an overall fleet-wide increase in net revenues (profits) of approximately $200,000 to $721,839 could occur, distributed among the 40 vessels potentially impacted by this alternative. Under this alternative, each individual vessel owner could see an increase in annual net revenues ranging from $0 to potentially over $100,000, depending upon the profitability of their business.

Another important economic benefit associated with the proposed action is that it could help to maintain the domestic swordfish and tuna PLL fishery at historical levels. All of the potentially affected vessels/permit holders originally qualified for the longline fishery in 1999, or received the necessary permits through transfer. If adopted, the proposed action could help the United States retain its historic swordfish quota allocation at ICCAT and sustain employment opportunities by maintaining the PLL fleet at historical levels. Maintaining a viable domestic PLL fishery is important, because it helps to demonstrate to other nations that a well-managed, environmentally-sound fishery can also be profitable. This could eventually provide an incentive for other nations to adopt similar management measures that are currently required of the U.S. PLL fleet such as circle hooks, careful release gears, and others.

A related potential impact associated with both alternatives is that changes to the value of an Atlantic tunas longline LAP could occur by changing the supply of available permits. The no action alternative would likely reduce the supply of available permits over time, thereby increasing the value. The proposed action could initially increase the supply, and thereby reduce the value. These impacts would be either positive or negative for small business entities, depending upon whether the Atlantic tunas longline LAP was being bought or sold.

There are no other significant alternatives for the renewal of Atlantic tunas longline permit, except for the two aforementioned alternatives. The proposed action achieves the objectives of this rulemaking, provides benefits to small entities, and has few associated impacts because the proposed regulatory changes are more representative of the actual operational capabilities of the Atlantic tunas longline LAP renewal system.

Alternative 1 for attendance requirements at Atlantic Shark Identification Workshops (alternative 2.2.1 in the IRFA) is the no action alternative. All dealers intending to renew their Atlantic shark dealer permit would continue to be required to become certified at an Atlantic Shark Identification Workshop, or to have their proxies certified. Dealers with multiple locations would receive certificates for each location listed on their permit. Dealers opting not to become certified and to send a proxy would continue to be required to send a proxy for each location listed on their Atlantic shark dealer permit. Atlantic shark dealers would not be allowed to renew their permit without submitting either a dealer or proxy certificate for each location listed on their Atlantic shark dealer permit. Additionally, Atlantic shark dealers could not first receive shark products at a location that does not have a valid workshop certificate for that address on the premises.

There are approximately 56 Atlantic shark dealers with more than one location listed on their permit. These dealers have the choice of becoming certified themselves, or sending a proxy to the workshops for each location listed on a permit. As described in the Consolidated HMS FMP and its final rule (71 FR 58058, October 2, 2006), on an individual basis the costs incurred by dealers and/or proxies are those related to travel and the time required to attend the workshops, which result in out of pocket expenses and lost opportunity costs. Travel costs to attend these workshops vary, depending upon the distance that must be traveled. Daily opportunity costs for dealers are not currently known. Therefore, it is not possible to precisely quantify the costs associated with the no action alternative. At a minimum, the costs for a dealer attending a workshop include travel expenses and at least one day of lost opportunity costs. At a maximum, for dealers opting to send proxies for each location listed on their permit, the costs could include travel expenses for several proxies and several days of lost opportunity costs.

Alternative 2 for Atlantic Shark Identification Workshop attendance requirements (preferred alternative 2.2.2 in the IRFA) would specify that, upon permit renewal, a dealer must submit an

Atlantic Shark Identification Workshop certificate (dealer or proxy) for each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade, rather than from each location listed on their dealer permit. The requirement to display an Atlantic Shark Identification Workshop certificate would similarly only be required at locations listed on the dealer permit where sharks are first received. This would eliminate the need for a dealer to send a proxy to a workshop to obtain a certificate for a business location that does not first receive Atlantic shark products for the sole purpose of renewing their Atlantic shark dealer permit.

As mentioned above, there are currently 56 shark dealers with multiple locations listed on their permit which could be impacted by the proposed action. Of these, 12 Atlantic shark dealers have not currently been issued Atlantic Shark Identification Workshop certificates for all of the locations listed on their permit.

NMFS anticipates that the total costs (travel costs and opportunity costs) associated with proposed alternative 2 for Atlantic Shark Identification Workshop attendance requirements would be lower than those associated with the no action alternative, but only for those Atlantic shark dealers that: (1) opt to send a proxy (or proxies) to the workshop; (2) have multiple locations listed on their permit; and, (3) only first receive shark products at some of the locations listed on their Atlantic shark dealer permit. Costs would remain unchanged for shark dealers that do not meet these three criteria. For dealers that meet these criteria, the costs would be reduced by an amount equivalent to sending proxies for each location listed on the permit that do not first receive shark products. For example, if a dealer chooses to send proxies and has four locations listed on the permit, but only two of those locations first receive shark products, the costs would be reduced by the amount equivalent to sending two proxies to an Atlantic Shark Identification Workshop.

Alternative 2 would also require extensions of a dealer's business, such as trucks and other conveyances, to possess a copy of a valid dealer or proxy certificate issued to a place of business covered by the dealer permit. This requirement would allow trucks and other conveyances to be immediately identified as extensions of a NMFS certified place of business which is eligible to first receive Atlantic sharks. NMFS anticipates that this requirement would have minimal costs but could improve the enforceability of existing Atlantic shark regulations.

There are no other significant alternatives for workshop attendance requirements except for these two alternatives. Administratively it is not currently feasible, for both technical and programmatic reasons, to modify the NMFS permits database to accommodate dealers having different locations where they first receive different species. The requirement to display an Atlantic Shark Identification Workshop certificate at all locations where sharks are first received would remain in effect. Therefore, the proposed alternative achieves the objective of improving the identification and reporting of shark species, while simultaneously lessening impacts on dealers. The proposed alternative will also improve the enforceability of existing Atlantic shark regulations by requiring extensions of a dealer's business, such as trucks and other conveyances, to possess a copy of a valid dealer or proxy certificate issued to a place of business covered by the dealer permit.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Management, Penalties, Reporting and recordkeeping requirements.

Dated: April 7, 2008.

Samuel D. Rauch III,

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

For reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.4, paragraph (m)(2) is revised to read as follows:

§ 635.4 Permits and fees.

* * * * *

(m) * * *

(2) *Shark and swordfish LAPs.* The owner of a vessel of the U.S. that fishes for, possesses, lands or sells shark or swordfish from the management unit, or that takes or possesses such shark or swordfish as incidental catch, must have the applicable limited access permit(s) issued pursuant to the requirements in paragraphs (e) and (f) of this section. Only persons holding non-expired shark and swordfish limited access permit(s) in the preceding year are eligible to renew those limited access permit(s). Transferors may not renew limited access permits that have been transferred according to the procedures of paragraph (l) of this section.

3. In § 635.8, paragraphs (b)(4), (b)(5), and (c)(4) are revised to read as follows:

§ 635.8 Workshops.

* * * * *

(b) * * *

(4) Dealers may send a proxy to the Atlantic shark identification workshops. If a dealer opts to send a proxy, the dealer must designate at least one proxy, including at least one proxy from each place of business listed on the dealer permit which first receives Atlantic shark by way of purchase, barter, or trade pursuant to § 635.4(g)(2). The proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and fills out dealer reports as required under § 635.5. Only one certificate will be issued to each proxy. If a proxy is no longer employed by a place of business covered by the dealer's permit, the dealer or another proxy must be certified as having completed a workshop pursuant to this section. At least one individual from each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade must possess a valid Atlantic shark identification workshop certificate.

(5) A Federal Atlantic shark dealer issued or required to be issued a shark dealer permit pursuant to § 635.4(g)(2) must possess and make available for inspection a valid Atlantic shark identification workshop certificate at each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade. For the purposes of this part, trucks and other conveyances are considered to be extensions of a dealer's place of business and must possess a copy of a valid dealer or proxy certificate issued to a place of business covered by the dealer permit. A copy of this certificate issued to the dealer or proxy must be included in the dealer's application package to obtain or renew a shark dealer permit. If multiple businesses are authorized to receive Atlantic sharks under the dealer's permit, a copy of the workshop certificate for each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade must be included in the shark dealer permit renewal application package.

(c) * * *

(4) An Atlantic shark dealer may not first receive, purchase, trade, or barter for Atlantic shark without a valid Atlantic shark identification workshop certificate. A valid Atlantic shark identification workshop certificate must be maintained on the premises of each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade. An Atlantic shark dealer may not renew a Federal dealer permit issued pursuant to § 635.4(g)(2) unless a valid Atlantic shark identification workshop certificate has been submitted with permit renewal application. If the dealer is not certified, the dealer must submit a copy of a proxy certificate for each place of business listed on the dealer permit which first receives Atlantic sharks by way of purchase, barter, or trade.

* * * * *

4. In § 635.21, paragraph (e)(4)(iii) is revised to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(e) * * *

(4) * * *

(iii) A person aboard a vessel issued or required to be issued a valid directed handgear LAP for Atlantic swordfish may not fish for swordfish with any gear other than handgear. A swordfish will be deemed to have been harvested by longline when the fish is on board or offloaded from a vessel using or having on board longline gear. Only vessels that have been issued, or that are required to have been issued, a valid directed or handgear swordfish LAP under this part may utilize or possess buoy gear. Vessels utilizing buoy gear may not possess or deploy more than 35 floatation devices, and may not deploy more than 35 individual buoy gears per vessel. Buoy gear must be constructed and deployed so that the hooks and/or gangions are attached to the vertical portion of the mainline. Floatation devices may be attached to one but not both ends of the mainline, and no hooks or gangions may be attached to any floatation device or horizontal portion of the mainline. If more than one floatation device is attached to a buoy gear, no hook or gangion may be attached to the mainline between them. Individual buoy gears may not be linked, clipped, or connected together in any way. Buoy gears must be released and retrieved by hand. All deployed buoy gear must have some type of monitoring equipment affixed to it including, but not limited to, radar reflectors, beeper devices, lights, or reflective tape. If only reflective tape is affixed, the vessel deploying the buoy gear must possess on board an operable spotlight capable of illuminating deployed floatation devices. If a gear monitoring device is positively buoyant, and rigged to be attached to a fishing gear, it is included in the 35 floatation device vessel limit and must be marked appropriately.

* * * * *

5. In § 635.71, paragraph (d)(14) is revised to read as follows:

§ 635.71 Prohibitions.

* * * * *

(d) * * *

(14) Receive, purchase, trade, or barter for Atlantic shark without making available for inspection, at each of the dealer's places of business listed on the dealer permit which first receive Atlantic sharks by way of purchase, barter, or trade, a valid Atlantic shark identification workshop certificate issued by NMFS in violation of § 635.8(b), except that trucks or other conveyances of the business must possess a copy of such certificate.

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Notices

Federal Register
Vol. 73, No. 71
Friday, April 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

Submission for OMB Review; Comment Request

April 7, 2008.

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

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

Rural Housing Service

Title: 7 CFR Part 1901–E, Civil Rights Compliance Requirements.

OMB Control Number: 0575–0018.

Summary of Collection: Rural Development (RD) is required to provide Federal financial assistance through its farmer, housing, and community and business programs on an equal opportunity basis. The laws implemented in 7 CFR 1901–E, require the recipients of Rural Development's Federal financial assistance to collect various types of information by race, color, and national origin.

Need and Use of the Information: RD will use the information to monitor a recipient's compliance with the civil rights laws, and to determine whether or not service and benefits are being provided to beneficiaries on an equal opportunity basis. This information is made available to USDA officials, officials of other Federal agencies and to Congress for reporting purposes. Without the required information, RD and its recipient will lack the necessary documentation to demonstrate that their programs are being administered in a nondiscriminatory manner and in full compliance with the civil rights laws.

Description of Respondents: Individuals or households; not-for-profit institutions; business or other for-profit; farms; State, Local or Tribal Government.

Number of Respondents: 20,200.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 560,651.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E8–7672 Filed 4–10–08; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0029]

Notice of Request for Revision and Extension of Approval of an Information Collection; Emergency Management Response System

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision and extension of approval of an information collection associated with the Emergency Management Response System.

DATES: We will consider all comments that we receive on or before June 10, 2008.

ADDRESSES: You may submit comments by either of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0029* to submit or view comments and to view supporting and related materials available electronically.

Postal Mail/Commercial Delivery: Please send two copies of your comment to Docket No. APHIS–2008–0029, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0029.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: For information on the Emergency Management Response System, contact Dr. Randall Crom, Senior Staff Veterinarian, National Center for Animal Health Emergency Management, VS, APHIS, 4700 River Road, Unit 41, Riverdale, MD 20737; (301) 734–8073. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Emergency Management Response System.

OMB Number: 0579–0071.

Type of Request: Revision and extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS), among other things, administers regulations intended to prevent foreign diseases of livestock or poultry from being introduced into the United States, conducts surveillance for the early detection of such foreign animal diseases, and conducts eradication programs if such foreign diseases are detected.

Through our automated Emergency Management Response System (EMRS), APHIS helps manage and investigate potential incidents of foreign animal diseases in the United States.

When a potential foreign animal disease incident is reported, APHIS dispatches a foreign animal disease veterinary diagnostician to the site to conduct an investigation. The diagnostician obtains vital epidemiologic data by conducting field investigations, including sample collection, and by interviewing the owner or manager of the premises being investigated. These important data, submitted electronically by the diagnostician into EMRS, include such items as the number of sick or dead animals on the premises, the results of necropsy examinations, vaccination information on the animals in the flock or herd, biosecurity practices at the site, whether any animals were recently moved out of the herd or flock, whether any new animals were recently introduced into the herd or flock, and detailed geographic data concerning premises location.

The previous title of this collection was ''Foreign Animal Disease/Emerging Disease Investigation (FAD/EDI) Database.'' After development and implementation of an automated system to collect animal disease related data, the collection title was changed to ''Emergency Management Response System.'' The Web-based system allows epidemiological and diagnostic data to be documented and transmitted more efficiently. VS form 12–27, which was used by diagnosticians to record data prior to EMRS implementation, is now obsolete.

We are asking the Office of Management (OMB) to approve our use of these information collection activities for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Owners/managers of premises.

Estimated annual number of respondents: 660.

Estimated annual number of responses per respondent: 4.

Estimated annual number of responses: 2,640.

Estimated total annual burden on respondents: 2,640 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 7th day of April 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–7753 Filed 4–10–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0020]

Notice of Request for Extension of Approval of an Information Collection; Importation of Restricted and Controlled Animal and Poultry Products and Byproducts, Organisms, and Vectors Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the importation into the United States of restricted and controlled animal and poultry products and byproducts, organisms, and vectors.

DATES: We will consider all comments that we receive on or before June 10, 2008.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0020* to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send two copies of your comment to Docket No. APHIS–2008–0020, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0020.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: For information on the importation into the

United States of restricted and controlled animal and poultry products and byproducts, organisms, and vectors, contact Dr. Tracye R. Butler, Assistant Director, Technical Trade Services Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737; (301) 734–3277. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS* Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Importation of Restricted and Controlled Animal and Poultry Products and Byproducts, Organisms, and Vectors into the United States.

OMB Number: 0579–0015.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) regulates the importation of certain animal and poultry products and byproducts, organisms, and vectors under 9 CFR parts 94, 95, 96, and 122 to prevent the introduction and spread of livestock and poultry diseases into the United States.

To accomplish this, we must collect information from a variety of individuals, both within and outside the United States, who are involved in handling, transporting, and importing these items. Collecting this information is critical to our mission of ensuring that these imported items do not present a disease risk to the livestock and poultry populations of the United States.

We use a number of forms, documents, and other activities, including those described below.

VS Form 16–3 (Application for Permit to Import Controlled Materials/Import or Transport Organisms or Vectors). This is the application and agreement form used by individuals seeking a permit.

VS Form 16–25 (Application for Approval or Report of Inspection of Establishments Handling Restricted Animal Byproducts or Controlled Materials. This is a dual purpose form. It is an application for U.S. establishments requesting approval to handle restricted imported animal byproducts and controlled materials. It also serves as a report of inspections of establishments to ensure that restricted and controlled imports are being handled in compliance with our requirements.

VS Form 16–26 (Agreement for Handling Restricted Imports of Animal Byproducts and Controlled Materials). This is a form signed by an operator of a U.S. establishment wishing to handle restricted or controlled materials in which the operator agrees to comply with all requirements for handling the restricted and controlled materials.

Certificates. Certain animal and poultry products must have a certificate from the national government of the exporting country to be eligible for importation into the United States. These certificates are required to verify that the animal or poultry products meet the sanitary requirements of our regulations (*e.g.*, originated from disease-free animals and from animals native to the country of origin, or were prepared in a certain manner in an approved establishment).

The certificate, signed by a full-time salaried veterinary official of the country of origin, or other authorized person, provides us with information that enables us to determine whether an article meets our requirements for importation.

Seals. Certain animal or poultry products and byproducts must be shipped in sealed containers or holds to ensure that the integrity of the shipment is not violated. The seals must be numbered, the numbers of the seals must be recorded on the government certificate that accompanies the shipment, and the seals must not have been tampered with. Federal inspectors at ports of entry inspect the seals and verify that the seals are intact and that the numbers match those on the certificates.

Compliance agreement, recordkeeping requirements. Certain animal or poultry products and byproducts are required to be processed in a certain manner in an establishment in a foreign country before being exported to the United States. We require an official of the processing plant to sign a written agreement prepared by APHIS. By signing this agreement, this official certifies that the animal products being exported to the United States have been processed in a manner approved by APHIS, and that adequate records of these exports are being maintained.

Marking requirements. Before certain animal products may enter the United States, they must be marked, with an ink stamp or brand, to indicate that the products have originated from an approved meat processing establishment and have been inspected by appropriate veterinary authorities. The mark is applied to the meat product by processing plant personnel.

Foreign meat inspection certificate for importation of fresh meat from regions free of foot-and-mouth disease and rinderpest, but subject to certain restrictions due to their proximity to, or trading relationships with, regions where foot-and-mouth disease or rinderpest exists. This certificate, completed by a veterinary official of the exporting region, provides specific information regarding the establishment where the animals were slaughtered, the origin of the animals, and the processing and handling of the meat or other animal products.

Certification of a national government for importation of pork or pork products from a swine vesicular disease-free region. This is a statement, completed by a government official of an exporting region, certifying that the U.S.-destined pork or pork product originated in a region that is free from swine vesicular disease.

Certification of a national government for importation of hams. When hams are imported into the United States from regions where swine diseases of concern (e.g., classical swine fever, swine vesicular disease, and foot-and-mouth disease) exist, APHIS requires certain disease risk mitigation measures. National governments in those regions must certify that APHIS mitigation measures, such as curing and/or cooking, have been met.

Cleaning and disinfecting methods. This is a letter from veterinary officials of an exporting region stating that appropriate cleaning and disinfecting methods have been applied to trucks, railroad cars, or other means of conveyance used to transport certain animal products destined for the United States.

We are asking the Office of Management and Budget (OMB) to approve out use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning this information collection. These comments will help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection

technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.880251215 hours per response.

Respondents: Importers, exporters, shippers, foreign animal health authorities, owner/operators of establishments (domestic and foreign) who handle restricted and controlled materials.

Estimated annual number of respondents: 10,367.

Estimated annual number of responses per respondent: 2.518857914.

Estimated annual number of responses: 26,113.

Estimated total annual burden on respondents: 22,986 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.) All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 7th day of April 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–7755 Filed 4–10–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Boundary Establishment for Wildcat National Wild and Scenic River, White Mountain National Forest, Carroll County, New Hampshire State

AGENCY: Forest Service, USDA.

ACTION: Notice of availability.

SUMMARY: In accordance with Section 3(b) of the Wild and Scenic Rivers Act, the USDA Forest Service, Washington Office, is transmitting the final boundary of the Wildcat National Wild and Scenic River to Congress. The Wild and Scenic Rivers Act requires that each federally administered river in the National System have a legally established boundary.

FOR FURTHER INFORMATION CONTACT: The Wildcat Wild and Scenic River boundary is available for review at the following offices: USDA Forest Service, Wilderness & Wild and Scenic Rivers, 1400 Independence Avenue, SW., Washington, DC 20024; USDA Forest Service Eastern Region, 626 East Wisconsin Avenue, Milwaukee, Wisconsin, 53202; and, White Mountain National Forest, 719 North Main Street, Laconia, New Hampshire 03246. A detailed legal description is available upon request.

Additional information may be obtained by contacting Holly Jewkes, White Mountain National Forest, 33 Kancamagus Highway, Conway, New Hampshire, (603)447–5448, or via e-mail at *hjewkes@fs.fed.us*.

SUPPLEMENTARY INFORMATION: The Wild and Scenic Rivers Act, as amended, (Pub. L. 100–554 of October 1988) designated the Wildcat River, New Hampshire, as a National Wild and Scenic River, to be administered by the Secretary of Agriculture. As specified by law, the boundary will not be effective until ninety days after Congress receives the transmittal.

Dated: April 3, 2008.

Thomas G. Wagner,

Forest Supervisor, White Mountain National Forest.

[FR Doc. E8–7559 Filed 4–10–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Bend/Ft. Rock Ranger District; Deschutes National Forest; Oregon; EXF Thinning, Fuels Reduction, and Research Project EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (ETS) on a proposed action to address forest health and hazardous fuels concerns as well as facilitating research within the 3,535-acre planning area known as the Lookout Mountain Unit of the Pringle Falls Experimental Forest. The planning area is located about 30 miles southwest of Bend, Oregon; it is located in Township 20 South, Range 9 East, and Township 21 South, Range 9 East. The alternatives will include the proposed action, no action, and additional alternatives that respond to issues generated through the scoping process. The agency will give notice of the full environmental analysis and decision making process so interested and affected people may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by 30 days following the date that this notice appears in the **Federal Register**.

ADDRESSES: Send written comments to Phil Cruz, District Ranger, Bend/Ft. Rock Ranger District, 1230 NE 3rd St., Suite A–262, Bend, OR 97701.

FOR FURTHER INFORMATION CONTACT: Beth Peer, Environmental Coordinator, Bend/Ft. Rock Ranger District, 1230 NE 3 St., Suite A–262, Bend, Oregon, 97701, phone (541) 383–4769. E-mail *bpeer@fs.fed.us*.

Responsible Official. The responsible official will be John Allen, Forest Supervisor, Deschutes National Forest, P.O. Box 1645 Hwy 20 East, Bend, OR 97701.

SUPPLEMENTARY INFORMATION: *Purpose and Need.* Forest and scientific studies being conducted in the experimental forest are threatened by wildfire and forest health problems. This important site could be lost if stand densities are not reduced.

The proposed action is needed to reduce stand density to lower susceptibility to catastrophic loss to insects, disease, or fire, as well as to protect the long-term studies and future research opportunities represented by the residual stand and create new stand structures as a requirement for the new studies. Treatment is needed to:

- Reduce stand density and ground fuels in a buffer surrounding the Levels-of Growing-Stock Study and surrounding the Ponderosa Pine-Grand Fir Spacing Study to prevent loss from insects and wildfire.
- Reduce stand density and ground fuels in stands belonging to ponderosa pine and mixed conifer plant associations dominated by ponderosa pine to maintain high growth rates and reduce susceptibility to insect infestation.
- Reduce stand density and ground fuels in mixed conifer stands that include mountain hemlock to reduce the risk of wildfire moving downslope into ponderosa pine stands.
- Provide operational scale research opportunities through a series of thinning and fuel reduction treatments applied across the landscape that facilitate studies of the interaction of climate change and vegetation dynamics, fire ecology of giant chinquapin, processes for converting even-aged stands to uneven-aged stands, and the effect of stand manipulation on wind patterns and wind residual tree blowdown.
- Protect and enhance future research opportunities.

The proposed activities provide a platform for a suite of new studies that address the Pacific Northwest (PNW) Research Station's goals for climate change and vegetation dynamics research. Scientists at the PNW Research Station have identified

numerous research goals with this proposal including:

- Develop and demonstrate a suite of treatments that accelerate the development of large trees while reintroducing natural disturbance processes that provide greater ecosystem resiliency.
- Evaluate the influence of climate change on vegetation dynamics and forest structure. Develop and demonstrate a process for converting even-aged stands to uneven-aged stands.
- Protect ongoing research and provide greater opportunities for future research.
- Develop and demonstrate linkages between mid-scale (multiple watersheds) and project analyses.
- Refine and demonstrate a burn probability and fire risk analysis using a fire modeling/actuarial risk approach.
- Expand the current use of the west-wide pine beetle model to incorporate western, mountain, and engraver beetles, and develop a means to incorporate red turpentine beetle.
- Evaluate the use of biological control agents to manipulate aboveground biomass of the dominant shrub, snowbrush, and thereby encourage enhanced herbivory and defoliation to create more predictable burning conditions and potentially greater natural regeneration of ponderosa pine.
- Create an opportunity to locate and showcase a large body of work for the Western Wildlands Environmental Threat Assessment Center.
- Refine current understanding of fire ecology for prominent plant species such as giant chinquapin.

Proposed Action. The Forest Service proposes to implement activities across approximately 2,603 acres within four different treatment blocks. Treatments will reduce stand densities by thinning, mow shrubs, and underburn. The blocks delineate areas of homogonous elevation and aspect, and incorporate roads for boundaries where appropriate. Four levels of treatment are proposed, in addition to control (untreated) units. These treatments are randomly assigned to one unit within each block.

Comment. Public comments about this proposal are requested in order to assist in identifying issues, determine how to best manage the resources, and to focus the analysis. Comments received to this notice, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 and 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

A draft EIS will be filed with the Environmental Protection Agency (EPA) and available for public review by October 2008. The EPA will publish a Notice of Availability (NOA) of the draft EIS in the **Federal Register**. The final EIS is scheduled to be available January 2009.

The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions [*Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978)1. Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts [*City of Angoon* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)1. Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS of the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period for the draft EIS. The Forest Service is the lead agency and the responsible official is the Forest Supervisor, Deschutes National Forest.

The responsible official will decide where, and whether or not to thin stands, and apply natural fuels treatments. The responsible official will also decide how to mitigate impacts of these actions and will determine when and how monitoring of effects will take place.

The EXF Project decision and the reasons for the decision will be documented in the record of decision. That decision will be subject to Forest Service Appeal Regulations (35 CFR Part 215).

Phil Cruz,

Bend/Ft. Rock District Ranger.

[FR Doc. E8–7692 Filed 4–10–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will be meeting to hear Dr. Faith Ann Heinsch give a presentation on ''Implications of Climate Change for Forests of the Northern Rockies'', and will hold a short public forum (question and answer session) . The meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393). The meeting is open to the public.

DATES: The meeting will be held on April 22, 2008, 6:30 p.m.

ADDRESSES: The meeting will be held at the Bitterroot National Forest, Supervisor Office, Conference Room, 1801 North First Street, Hamilton, Montana. Send written comments to Daniel Ritter, District Ranger, Stevensville Ranger District, 88 Main

Street, Stevensville, MT 59870, by facsimile (406) 777–7423, or electronically to *dritter@fs.fed.us*.

FOR FURTHER INFORMATION CONTACT: Daniel Ritter, Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777–5461.

Dated: April 3, 2008.

David T. Bull,

Forest Supervisor.

[FR Doc. E8–7693 Filed 4–10–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Roadless Area Conservation National Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Roadless Area Conservation National Advisory Committee will meet in Salt Lake City, Utah. The purpose of the meeting is to discuss the proposed rule for the management of roadless areas on National Forest System lands in the State of Idaho and to discuss other related roadless area matters.

DATES: The meeting will be held April 25th from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Utah Department of Natural Resources, Room 200, 1594 W. North Temple St., Salt Lake City, Utah. Written comments concerning this meeting should be addressed to Forest Service, U.S. Department of Agriculture, EMC, Jessica Call, 201 14th Street, SW., Mailstop 1104, Washington, DC 20024. Comments may also be sent via e-mail to jessicacall@fs.fed.us, or via facsimile to 202–205–1012. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Forest Service, Sidney R.Yates Building, 201 14th Street, SW., Washington, DC. Visitors are encouraged to call ahead to 202–205–1056 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Jessica Call, Roadless Area Conservation National Advisory Committee (RACNAC) Coordinator, at *jessicacall@fs.fed.us* or 202–205–1056.

Individuals who use telecommunication devices 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 Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public and interested parties are invited to attend; building security requires you to provide your name to Jessica Call, RACNAC Coordinator by April 21, 2008. You will need photo identification to enter the building.

The meeting discussion will be limited to Forest Service staff and Committee members. Due to the time constraints of the meeting, there will be no time allotted for public oral comment. Only written public comments will be accepted for the Committee's consideration. Written comments may be brought to the meeting or sent in advance to the Forest Service, U.S. Department of Agriculture, EMC, Jessica Call, 201 14th Street, SW., Mailstop 1104, Washington, DC 20024. Comments may also be sent via e-mail to *jessicacall@fs.fed.us,* or via facsimile to 202–205–1012.

Dated: April 4, 2008.

Charles L. Myers,

Associate Deputy Chief, NFS.

[FR Doc. E8–7509 Filed 4–10–08; 8:45 am]

BILLING CODE 3410–11–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the Procurement List.

SUMMARY: This action adds to the Procurement List a service to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

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

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov.*

SUPPLEMENTARY INFORMATION:

On February 8, 2008, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (73 FR 7521) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service is added to the Procurement List:

Service

Service Type/Location: Janitorial/Custodial Services, U.S. Coast Guard, Integrated Support Command (ISC), San Pedro Terminal Station, San Pedro, CA.
NPA: Elwyn, Inc., Aston, PA.
Contracting Activity: USCG-Alameda, Alameda, CA.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E8–7773 Filed 4–10–08; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a product and

services previously furnished by such agencies.

Comments Must Be Received on or Before: May 11, 2008.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

For Further Information or to Submit Comments Contact: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Pen, Multi-function
NSN: 7510–00–NIB–0797—B3 Aviator Pen, Refill
NSN: 7520–00–NIB–1754—B3 Aviator Pen
NPA: Alphapointe Association for the Blind, Kansas City, MO.
Coverage: A-List for the total Government requirements as specified by the General Services Administration.
Contracting Activity: General Services Administration, Office Supplies & Paper Products Acquisition Ctr, New York, NY.
Pen, Vista Gel
NSN: 7510–00–NIB–0728—Red, .7mm, Refill
NSN: 7520–00–NIB–1761—Red, .7mm
NPA: Industries of the Blind, Inc., Greensboro, NC.
Coverage: A–List for the total Government requirements as specified by the General Services Administration.
Contracting Activity: General Services Administration, Office Supplies & Paper Products Acquisition Ctr, New York, NY.

Services

Service Type/Location: Custodial Services, Peachtree Summit Federal Building, 401 W. Peachtree Street, Atlanta, GA.
NPA: WORKTEC, Jonesboro, GA.
Contracting Activity: General Services Administration, Public Buildings Services, Region 4, Atlanta, GA.
Service Type/Location: Food Service Attendant, Air National Guard—Jacksonville, 14300 Fang Drive, Jacksonville, FL.
NPA: Goodwill Industries of North Florida, Jacksonville, FL.
Contracting Activity: Air National Guard—Jacksonville, 125th Fighter Wing, Jacksonville, FL.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action should not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the product and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product and services proposed for deletion from the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following product and services are proposed for deletion from the Procurement List:

Product

Cover, Toxicological Agents Protective
NSN: 8415–00–261–6443
NPA: Tommy Nobis Enterprises, Inc., Marietta, GA.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Services

Service Type/Location: Janitorial/Custodial, Curlew Conservation Center, Colville National Forest, Curlew, WA.
NPA: Ferry County Community Services, Republic, WA.
Contracting Activity: U.S. Department of Agriculture, Colville National Forest, Colville, WA.
Service Type/Location: Janitorial/Custodial, Federal Office Building, Ontario Street and Division, Sandpoint, ID.
NPA: Panhandle Special Needs, Inc., Sand Point, ID.
Contracting Activity: General Services Administration, Public Buildings Service, Region 10.
Service Type/Location: Janitorial/Custodial, Schultz Maintenance Complex, Wilson Creek Road, Ellensburg, WA.
NPA: Elmview, Ellensburg, WA.
Contracting Activity: Department of Energy, Spokane, WA.

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E8–7772 Filed 4–10–08; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Billfish Tagging Report.

Form Number(s): 88–162.

OMB Approval Number: 0648–0009.

Type of Request: Regular submission.

Burden Hours: 104.

Number of Respondents: 1,250.

Average Hours Per Response: 5 minutes.

Needs and Uses: The National Oceanic and Atmospheric Administration's Southwest Fisheries Science Center operates an angler-based billfish tagging program. Tagging supplies are provided to volunteers. When a fish catch and tag occurs, a brief report is submitted on the fish tagged and the location of tagging. The information obtained is used in conjunction with tag returns to determine billfish migration patterns,

mortality rates, and similar information useful in the management of the billfish fisheries.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Fax number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: April 7, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–7651 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Prohibited Species Donation Program.

Form Number(s): None.

OMB Approval Number: 0648–0316.

Type of Request: Regular submission.

Burden Hours: 535.

Number of Respondents: 21.

Average Hours Per Response: Distributor application, 13 hours; distributor list updates, 12 minutes; distributor product tracking and records retention, 12 minutes; processor product tracking and records retention, 6 minutes; product packaging and labeling, 4 minutes.

Needs and Uses: A prohibited species donation (PSD) program for salmon and halibut has effectively reduced regulatory discard of salmon and halibut by allowing fish that would otherwise be discarded to be donated to needy individuals through tax-exempt organizations. The vessels and processing plants participating in the donation program voluntarily retain and process salmon and halibut bycatch. An authorized, tax-exempt distributor, chosen by National Marine Fisheries Service (NMFS) is responsible for monitoring the retention and processing of fish donated by vessels and processors. The authorized distributor also coordinates the processing, storage, transportation, and distribution of salmon and halibut. The PSD program requires a collection of information so that NMFS can monitor the authorized distributors' ability to effectively supervise program participants and ensure that donated fish are properly processed, stored, and distributed.

Affected Public: Not-for-profit institutions.

Frequency: Every three years and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Fax number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: April 7, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–7652 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; AVIATION SERVICES INTERNATIONAL B.V.; DELTA LOGISTICS, B.V.; ROBERT KRAAIPOEL; NIELS KRAAIPOEL; T.P.C. B.V.; MIA VAN GEMERT; MOJIR TRADING; REZA AMIDI; LAVANTIA, LTD.; and MITA ZAREK

In the matter of: Aviation Services International B.V., P.O. Box 418, Heerhugowaard, Netherlands 1700AK; Aviation Services International B.V., Fleming Straat 36, Heerhugowaard, Netherlands 1704SL; Delta Logistics B.V., P.O. Box 418, Heerhugowaard, Netherlands 1700AK; Delta Logistics B.V., Fleming Straat 36, Heerhugowaard, Netherlands 1704SL; Robert Kraaipoel, P.O. Box 418, Heerhugowaard, Netherlands 1700AK; Robert Kraaipoel, Fleming Straat 36, Heerhugowaard, Netherlands 1704SL; Niels Kraaipoel, P.O. Box 418, Heerhugowaard, Netherlands 1700AK; Niels Kraaipoel, Fleming Straat 36, Heerhugowaard, Netherlands 1704SL; T.P.C. B.V., P.O. Box 418, Heerhugowaard, Netherlands 1700AK; T.P.C. B.V., Fleming Straat 36, Heerhugowaard, Netherlands 1704SL; T.P.C. B.V., P.O. Box 11, Heerhugowaard, Netherlands 1700AA; Mia Van Gemert, P.O. Box 418, Heerhugowaard, Netherlands 1700AK; Mia Van Gemert, Fleming Straat 36, Heerhugowaard, Netherlands 1704SL; Mojir Trading, P.O. Box 18118 , Jabel-Ali Free Zone, Dubai-UAE; Reza Amidi, P.O. Box 18118 , Jabel-Ali Free Zone, Dubai-UAE; Lavantia, Ltd., 16 Kyraikou Matsi Ave, 3rd Floor, 1082 Nicosia, Cyprus; Lavantia, Ltd., Strovolou 77, Strovolos Center Suite 202, Strovolos P.C. 2018, Nicosia, Cyprus; Mita Zarek, 16 Kyraikou Matsi Ave, 3rd Floor, 1082 Nicosia, Cyprus; Mita Zarek, Strovolou 77, Strovolos Center Suite 202, Strovolos P.C. 2018, Nicosia, Cyprus; Respondents.

Order Renewing Temporary Denial Order

Pursuant to Section 766.24(d) of the Export Administration Regulations (''EAR''),[1] the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, through its Office of Export Enforcement (''OEE''), has requested that I renew for 180 days an Order temporarily denying the export privileges under the EAR (''TDO'') of:

(1) AVIATION SERVICES INTERNATIONAL B.V., P.O. Box 418, Heerhugowaard, Netherlands 1700AK, and Fleming Straat 36, Heerhugowaard, Netherlands 1704SL.

(2) DELTA LOGISTICS, B.V., P.O. Box 418, Heerhugowaard, Netherlands 1700AK, and Fleming Straat 36, Heerhugowaard, Netherlands 1704SL.

(3) ROBERT KRAAIPOEL, P.O. Box 418, Heerhugowaard, Netherlands 1700AK, and Fleming Straat 36, Heerhugowaard, Netherlands 1704SL.

(4) NIELS KRAAIPOEL, P.O. Box 418, Heerhugowaard, Netherlands 1700AK, and Fleming Straat 36, Heerhugowaard, Netherlands 1704SL.

(5) T.P.C., B.V., P.O. Box 418, Heerhugowaard, Netherlands 1700AK,

[1] The EAR are currently codified at 15 CFR Parts 730–774 (2008). The EAR are issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 15, 2007 (72 FR. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701—1706 (2000)) (''IEEPA'').

and Fleming Straat 36, Heerhugowaard, Netherlands 1704SL, and P.O. Box 11, Heerhugowaard, Netherlands 1700AA.

(6) MIA VAN GEMERT, P.O. Box 418, Heerhugowaard, Netherlands 1700AK, and Fleming Straat 36, Heerhugowaard, Netherlands 1704SL.

(7) MOJIR TRADING, P.O. Box 18118, Jabel-Ali Free Zone, Dubai-UAE.

(8) REZA AMIDI, P.O. Box 18118, Jabel-Ali Free Zone, Dubai-UAE.

(9) LAVANTIA, Ltd., 16 Kyriakou Matsi Ave, 3rd Floor, 1082 Nicosia, Cyprus, and Strovolou 77, Strovolos Center Suite 202, Strovolos P.C. 2018, Nicosia, Cyprus.

(10) MITA ZAREK, 16 Kyraikou Matsi Ave, 3rd Floor,1082 Nicosia, Cyprus, and Strovolou 77, Strovolos Center Suite 202, Strovolos P.C. 2018, Nicosia, Cyprus.

(hereinafter collectively referred to as the ''Respondents'') for 180 days.

On October 1, 2007, I found that the evidence presented by BIS demonstrated that the Respondents have knowingly violated the EAR on multiple occasions between 2005 and 2007, by making false statements regarding the end-user and country of ultimate destination involving the export of items subject to the EAR from the United States. The evidence showed that Respondents concealed the true ultimate destination for the items, which was Iran, and that Respondents did not have the required U.S. Government authorization for the transactions. Additionally, in August 2007, Respondents Aviation Services International B.V. (''ASI''), Robert Kraaipoel, Delta Logistics B.V. (''Delta'') and T.P.C. B.V. (''TPC'') were criminally charged with five counts for similar misconduct involving the unlicensed export of U.S. origin items to Iran, including criminal violations of IEEPA and false statements as well. I further found that such violations had been significant, deliberate and covert, and were likely to occur again, especially given the nature of the transactions. For these reasons, I found that an imminent violation existed within the meaning of Section 766.24(b)(2). As such, a Temporary Denial Order (''TDO'') was needed to give notice to persons and companies in the United States and abroad that they should cease dealing with the Respondents in export transactions involving items subject to the EAR. Issuance of the TDO, rendered effective as of October 10, 2007, the date of publication in the **Federal Register**, was consistent with the public interest to preclude future violations of the EAR.

OEE has presented additional evidence showing that on multiple occasions Lavantia, Ltd. and its owner, Mita Zarek, have knowingly violated the TDO by continuing to engage in unauthorized transactions involving items subject to the EAR. Specifically, evidence shows that on or about November 26, 2007 and on or about February 9, 2008, shipper's export declarations (''SEDs'') were filed in the Automated Tracking System, listing Lavantia, Ltd. as the ultimate consignee for exports involving U.S. origin items subject to the EAR. The SEDs show that Respondents Lavantia, Ltd. and Mita Zarek are using a different address in Cyprus to receive the items. The new address is Strovolou 77, Strovolos Center Suite 202, Strovolos P.C. 2018, Nicosia, Cyprus.

In addition, the criminal charges against ASI, Robert Kraaipoel, Delta and TPC are still pending, and an arrest warrant is outstanding for Robert Kraaipoel.

I now find, based on the circumstances that led to the initial issuance of the TDO and the additional evidence supplied by OEE, that the renewal of this TDO for a period of the 180 days is necessary and in the public interest, to prevent an imminent violation of the EAR. I also find it necessary to add the additional address for Respondents Lavantia, Ltd. and Mita Zarek to the Order. All parties to this TDO have been given notice of the request for renewal.

It is therefore ordered:

First, that the Respondents, AVIATION SERVICES INTERNATIONAL B.V., P.O. Box 418, Heerhugowaard, Netherlands 1700AK, and Fleming Straat 36, Heerhugowaard, Netherlands 1704SL; DELTA LOGISTICS, B.V., P.O. Box 418, Heerhugowaard, Netherlands 1700AK, and Fleming Straat 36, Heerhugowaard, Netherlands 1704SL; ROBERT KRAAIPOEL, Director and Principal Officer of Aviation Services International B.V., P.O. Box 418, Heerhugowaard, Netherlands 1700AK, and Fleming Straat 36, Heerhugowaard, Netherlands 1704SL; NIELS KRAAIPOEL, Aviation Services International Sales Manager, P.O. Box 418, Heerhugowaard, Netherlands 1700AK, and Fleming Straat 36, Heerhugowaard, Netherlands 1704SL; T.P.C., B.V., P.O. Box 418, Heerhugowaard, Netherlands 1700AK, and Fleming Straat 36, Heerhugowaard, Netherlands 1704SL, and P.O. Box 11, Heerhugowaard, Netherlands 1700AA; MIA VAN GEMERT, Managing Director of Aviation Services International, P.O. Box 418, Heerhugowaard, Netherlands 1700AK, and Fleming Straat 36, Heerhugowaard, Netherlands 1704SL; MOJIR TRADING, P.O. Box 18118, Jabel-Ali Free Zone, Dubai-UAE; REZA AMIDI, P.O. Box 18118, Jabel-Ali Free Zone, Dubai-UAE; LAVANTIA, LTD., 16 Kyraikou Matsi Ave, 3rd Floor, 1082 Nicosia, Cyprus, and Strovolou 77, Strovolos Center Suite 202, Strovolos P.C. 2018, Nicosia, Cyprus; and MITA ZAREK, owner of Lavantia, Ltd., 16 Kyraikou Matsi Ave, 3rd Floor,1082 Nicosia, Cyprus, and Strovolou 77, Strovolos Center Suite 202, Strovolos P.C. 2018, Nicosia, Cyprus (collectively the ''Denied Persons'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Export Administration Regulations (''EAR''), or in any other activity subject to the EAR, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Persons any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Persons of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Persons acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Persons of any item subject to the EAR that has been exported from the United States;

D. Obtain from the Denied Persons in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has

been or will be exported from the United States and which is owned, possessed or controlled by the Denied Persons, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Persons if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to any of the Denied Persons by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Section 766.24(e) of the EAR, the Respondents may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request with the Assistant Secretary not later than 20 days before the expiration date and serving the request on the Respondents. The Respondents may oppose a request to renew this Order by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on the Respondents and shall be published in the **Federal Register**.

This Order is effective as of the date that it is signed and shall remain in effect for 180 days.

Entered this 4th day of April 2008.

Darryl W. Jackson,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. E8–7683 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–533–838

Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On December 7, 2007, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on carbazole violet pigment 23 from India. The review covers exports of this merchandise to the United States by Alpanil Industries for the period of review December 1, 2005, through November 30, 2006. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments we received from interested parties and the information we obtained after the preliminary results, we have made changes in the margin calculation for the final results of this review. The final weighted–average margin is listed below in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: April 11, 2008.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun at (202) 482–5760 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

On December 7, 2007, the Department of Commerce (the Department) published the preliminary results of review on carbazole violet pigment 23 (CVP 23) from India and invited interested parties to comment. See *Carbazole Violet Pigment 23 from India: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 69184 (December 7, 2007) (*Preliminary Results*). On January 10, 2008, Alpanil Industries (Alpanil) filed a case brief in which the company raised two substantive issues. On January 15, 2008, the petitioners[1] and a domestic interested party[2] filed rebuttal briefs.

Scope of the Order

The merchandise subject to this antidumping duty order is CVP 23 identified as Color Index No. 51319 and Chemical Abstract No. 6358–30–1, with the chemical name of diindolo [3,2 b:3 ,2 -m][3] triphenodioxazine, 8,18–dichloro–5, 15–diethyl–5, 15–dihydro-, and molecular formula of $C_{34}H_{22}Cl_2N_4O_2$. The subject merchandise includes the crude pigment in any form (*e.g.*, dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (*e.g.*, pigment dispersed in oleoresins, flammable solvents, water) are not included within the scope of the investigation. The merchandise subject to this antidumping duty order is classifiable under subheading 3204.17.90.40 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Analysis of the Comments Received

All issues raised in the case and rebuttal briefs by interested parties to this review are addressed in the Issues and Decision Memorandum (Decision Memo) from Deputy Assistant Secretary Stephen J. Claeys to Assistant Secretary David M. Spooner dated April 7, 2008, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded in the Decision Memo is attached to this notice as an Appendix. The Decision Memo, which is a public document, is on file in the Central Records Unit (CRU), main Department of Commerce building, Room 1117, and is accessible on the Web at http://ia.ita.doc.gov/frn/index.html. The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received and based on our own analysis of the preliminary results, we have made changes to the margin calculation with respect to three issues.

Sales Analyzed

Data we obtained from U.S. Customs and Border Protection (CBP) after we received the case and rebuttal briefs indicated that additional sales of subject merchandise Alpanil reported in its U.S. sales database entered the United States

[1] Nation Ford Chemical Company and Sun Chemical Corporation.

[2] Clariant Corporation.

[3] The bracketed section of the product description, [3,2-b:3 ,2 -m], is not business-proprietary information. In this case, the brackets are simply part of the chemical nomenclature. See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Carbazole Violet Pigment 23 From India*, 69 FR 77988 (December 29, 2004) (*Antidumping Duty Order*).

but liquidation of these sales was not suspended. Therefore, pursuant to section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act), we have calculated the weighted–average margin using the sales of CVP 23 that are related to these entries during the period of review. Where possible, for those entries of subject merchandise for which there was no suspension of liquidation and which have been liquidated, we adjusted the importer–specific assessment rates to take into account the antidumping duty liability for subject merchandise that entered and was liquidated without regard to antidumping duties. See the Decision Memo for more details.

Inland Freight from the Plant to the Port of Exportation

For a certain number of sales, Alpanil reported in its U.S. sales database erroneous amounts of inland–freight expenses it incurred to transport subject merchandise from its plant to the port of exportation. We revised these expenses based on the freight–expense documents Alpanil provided. See Alpanil Final Analysis Memorandum dated April 7, 2008 (Final Analysis Memo), for more details that rely on Alpanil's business–proprietary information.

Constructed Value and Associated Expenses

For certain reported U.S. sales that did not have matching home–market sales, we used constructed value as the basis for normal value. Because Alpanil did not report general and administrative (G&A) expenses in its constructed–value database, we calculated Alpanil's G&A expenses using Alpanil's profit–and-loss statement and reported total cost of manufacturing and packing expenses. In order to calculate correct amounts of indirect selling expenses for constructed value, we revised Alpanil's home–market indirect selling expense by excluding transportation expenses from the recalculation of its home–market indirect–selling-expense rate. See Alpanil Final Analysis Memo for more details that rely on Alpanil's business–proprietary information.

Final Results of Review

As a result of our review, we determine that the weighted–average margin for Alpanil for the period of review December 1, 2005, through November 30, 2006, is 11.25 percent.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will issue importer–specific assessment instructions for entries of subject merchandise during the period of review. The Department will issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by Alpanil for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate any unreviewed entries at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash–Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of CVP 23 entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(1) and (a)(2)(C) of the Act: (1) the cash–deposit rate for Alpanil will be 11.25 percent; (2) for a previously investigated company, the cash–deposit rate will continue to be the company–specific rate published in *Antidumping Duty Order*, 69 FR at 77989; (3) if the exporter is not a firm covered in this review or the less–than-fair–value investigation but the manufacturer is, the cash–deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer has its own rate, the cash–deposit rate will be 27.48 percent, the all–others rate published in *Antidumping Duty Order*, 69 FR at 77989. These deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of review. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO as explained in the APO itself. See 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 7, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

1. Reported U.S. Sales and Sales That Entered the United States
2. Countervailing Duty Offset

[FR Doc. E8–7794 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Expected Non-Market Economy Wages: Request for Comments on 2007 Calculation

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

ACTION: Request for comment.

SUMMARY: The Department of Commerce (''Department'') has a longstanding practice of calculating expected non-market economy (''NME'') wages for use as the surrogate value for direct labor in antidumping proceedings involving NME countries. These expected NME wages are calculated annually in accordance with the Department's regulations, *See* 19 CFR 351.408 (c)(3). This notice constitutes the Department's 2007 expected NME wages, which were calculated from 2005 data made available in 2007 according to the Department's revised methodology described in the **Federal Register** notice entitled Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, *71 FR 61716*, Oct. 19, 2006 (hereafter,

the ''Antidumping Methodologies notice''), and provides the public with an opportunity to comment on potential clerical errors in the calculation.

DATES: Any comments must be submitted no later than 10 days after publication of this notice.

ADDRESSES: Written comments (original and six copies) should be sent to David Spooner, Assistant Secretary for Import Administration, U.S. Department of Commerce, Central Records Unit, Room 1870, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Anthony Hill, Economist, Office of Policy, or Juanita Chen, Special Assistant to the Senior Enforcement Coordinator, China/ NME Group, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 482–1843 and (202) 482–1904, respectively.

Background

The Department's regulations generally describe the methodology by which the Department calculates expected NME wages: For labor, the Secretary will use regression-based wage rates reflective of the observed relationship between wages and national income in market economy countries. The Secretary will calculate the wage rate to be applied in non-market economy proceedings each year. The calculation will be based on current data, and will be made available to the public, *See* 19 CFR 351.408 (c)(3).

The Department's expected NME wages are calculated each year in two steps. First, the relationship between hourly wage rates (obtained from the International Labour Organization's (''ILO'') Yearbook of Labour Statistics) and per-capita gross national income (''GNI'') (obtained from the World Bank) is estimated using ordinary least squares (OLS) regression analysis. Second, the GNI of each of the countries designated by the Department to be an NME are applied to the regression, which yields an expected hourly wage rate for each NME.

The Department published a notice in the **Federal Register** on October 19, 2006, which detailed its revised methodology for calculating expected NME wages in antidumping proceedings involving NME countries. See the Antidumping Methodologies notice. In that notice, the Department stated that '' [e]ach year, the Department's annual calculation will be subject to public notice prior to the adoption of the resulting expected NME wage rates for use in antidumping proceedings. Comment will be requested only with regard to potential clerical errors in the Department's calculation.'' Antidumping Methodology Notice, 71 FR 61722.

This notice constitutes the Department's 2007 calculation of expected NME wages in Attachment 1, which were calculated from 2005 data made available in 2007 according to the Department's revised methodology described in the Antidumping Methodologies notice. The Department is requesting public comment only on the potential clerical errors in the calculation. Comments with regard to the methodology were addressed in the Antidumping Methodologies notice and will not be considered.

In order to facilitate a full opportunity for comment, and because the underlying data is voluminous, the preliminary results and underlying data for the preliminary 2007 expected NME wages calculation have been posted on the Import Administration Web site (*http://www.ia.ita.doc.gov*). This preliminary calculation will not be used for antidumping purposes until it has been finalized by the Department following the public comment period.

Submission of Comments

Persons wishing to comment on clerical errors in the Department's 2007 calculation of expected NME wages presented in Attachment 1 should file one signed original and six copies of each set of comments by the date specified above. The Department will consider all comments regarding clerical errors received before the close of the comment period. Comments received after the end of the comment period will be considered, if possible, but their consideration cannot be assured. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them. All comments responding to this notice will be a matter of public record and will be available for inspection and copying at Import Administration's Central Records Unit, Room 1117. The Department requires that comments be submitted in written form. The Department recommends submission of comments in electronic form to accompany the required paper copies. Comments filed in electronic form should be submitted either by e-mail to the Webmaster below, or on CD–ROM, as comments submitted on diskettes are likely to be damaged by postal radiation treatment. Comments received in electronic form will be made available to the public in Portable Document Format (PDF) on the Internet at the Import Administration Web site at the following address: *http://www.ia.ita.doc.gov*. Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482–0866, e-mail address: *webmaster-support@ita.doc.gov*.

Dated: April 1, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

Attachment 1–2007 Calculation of Expected NME Wages

Following the criteria and methodology described in the Antidumping Methodologies notice, and using the data available to the Department as of December 27, 2007, the Department has calculated preliminary 2007 expected NME wages. 2004 and 2005 data in Chapter 5B of the ILO International Labour Statistics were available for 87 entities: Albania, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Belgium, Bermuda, Botswana, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Georgia, Germany, Gibraltar, Guam, Hong Kong, Hungary, Iceland, India, Ireland, Isle of Man, Israel, Italy, Japan, Jersey, Jordan, Kazakhstan, Korea, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Macau, the former Yugoslav Republic of Macedonia, Madagascar, Malta, Mauritius, Mexico, Moldova, Mongolia, Myanmar, Netherlands, New Zealand, Nicaragua, Norway, Panama, Peru, Philippines, Poland, Portugal, Puerto Rico, Qatar, Romania, Russian Federation, San Marino, Serbia and Montenegro, Seychelles, Singapore, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, Taiwan, Ukraine, United Kingdom, United States, Virgin Islands, West Bank and Gaza strip.

Within this data set, for 2004 and 2005, there were no ''earnings'' data for Italy, Myanmar, Peru, Philippines, and Qatar.

There were no further entities eliminated as 2004 and 2005 data was present for ''men and women'' and represented all industries (''Total'') for the remaining 82 entities.

Of these 82 entities, a consumer price index was unavailable for the following 13: Azerbaijan, Bermuda, China, Cuba, Gibraltar, Guam, Isle of Man, Jersey, Puerto Rico, San Marino, Taiwan, Ukraine, and the Virgin Islands.

Of the remaining 69 entities, there was no exchange rate available for Serbia and Montenegro.

Of the remaining 68 entities, there was no GNI data available for: Bahrain, Cyprus, and Macau.

Of the remaining 65 entities, the following four are currently or were NMEs designated by the Department in 2004 or 2005: Armenia, Georgia, Kyrgyzstan, and Moldova.

Accordingly, the Department ran its preliminary 2007 expected NME wage regression on the following 61 countries: Albania, Argentina, Australia, Austria, Belgium, Botswana, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Germany, Hong Kong, Hungary, Iceland, India, Ireland, Israel, Japan, Jordan, Kazakhstan, Korea, Latvia, Lithuania, Luxembourg, Macedonia the former Yugoslav Republic of, Madagascar, Malta, Mauritius, Mexico, Mongolia, Netherlands, New Zealand, Nicaragua, Norway, Panama, Poland, Portugal, Romania, Russian Federation, Seychelles, Singapore, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, United Kingdom, United States, and West Bank and Gaza Strip.

Following the data compilation and regression methodology described in the Antidumping Methodologies notice, and using GNI and wage data for Base Year 2005, the regression results are: Wage = 0.284456 + 0.000447* GNI.

Country	Expected NME	
	2005 GNI (USD per annum)	Wage rate (USD per hour)
Armenia	1,470	0.94
Azerbaijan	1,270	0.85
Belarus	2,760	1.52
China	1,740	1.06
Georgia	1,300	0.87
Kyrgyz Republic	450	0.49
Moldova	960	0.71
Tajikistan	330	0.43
Uzbekistan	530	0.52
Vietnam	620	0.56

The World Bank did not publish a GNI for Turkmenistan.

As stated above, the full preliminary results and underlying data for the 2007 expected NME wages calculation have been posted on the Import Administration Web site (*http://ia.ita.doc.gov*).

[FR Doc. E8–7805 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–489–815

Notice of Final Determination of Sales at Less Than Fair Value: Light–Walled Rectangular Pipe and Tube from Turkey

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

EFFECTIVE DATE: April 11, 2008.

SUMMARY: The Department of Commerce (the Department) determines that imports of light–walled rectangular pipe and tube from Turkey are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final dumping margins are listed below in the section entitled ''Final Determination of Investigation.''

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold, Fred Baker, 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, (202) 482–2924, or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 30, 2008, the Department published the preliminary determination of sales at less than fair value (LTFV) in the antidumping investigation of light–walled rectangular pipe and tube from Turkey. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Light–Walled Rectangular Pipe and Tube from Turkey*, 73 FR 5508 (January 30, 2008) (*Preliminary Determination*). We invited parties to comment on the *Preliminary Determination*. On March 10, 2008, we received a letter from Goktas Tube, a producer/exporter of light–walled rectangular pipe and tube from Turkey. We did not receive any case or rebuttal briefs from any other interested parties.

Period of Investigation

The period of investigation is April 1, 2006, through March 31, 2007.

Scope of Investigation

The merchandise subject to this investigation is certain welded carbon quality light–walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon–quality steel includes both carbon steel and alloy steel which contains

only small amounts of alloying elements. Specifically, the term carbon–quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon–quality is intended to identify carbon–quality products within the scope. The welded carbon–quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our

written description of the scope of this investigation is dispositive.

Adverse Facts Available

For the final determination, we continue to find that by failing to respond to our July 31, 2007, abbreviated quantity and value questionnaire, and by failing to respond, or by failing to respond in a timely manner to our follow up letter dated August 16, 2007, Anadolu Boru, Ayata Metal Industy, Kalibre Boru Sanayi ve Ticaret A.S., Kerim Celik Mamulleri Imalat ve Ticaret[1], Ozgur Boru, Ozmak Makina ve Elektrik Sanayi, Seamless Steel Tube and Pipe Co. (Celbor), Umran Steel Pipe Inc., and Yusan Industries, Ltd., producers and/or exporter of light–walled rectangular pipe and tube from Turkey, did not cooperate to the best of their ability in this investigation. *See Preliminary Determination*, at 5509–5513. Thus, the Department continues to find the use of adverse facts available is warranted for these companies in accordance with sections 776 (a)(2) and (b) of the Act.

Also, we continue to find that, by failing to provide information we requested, mandatory respondents MMZ Onur Boru Profil Uretim San. Ve Tic. A.S. (MMZ) and Guven Boru Profil Sanayii ve Ticaret Limited Sirketi (Guven Boru), did not act to the best of their ability in responding to our questionnaires. Thus, the Department continues to find the use of adverse facts available is warranted for these companies under sections 776 (a)(2) and (b) of the Act. See id.

Because Goktas Tube did not respond to our abbreviated quantity and value questionnaire or to our follow up letter, we applied adverse facts available to the company in the *Preliminary Determination. See id.* On March 10, 2008, we received a letter from Goktas Tube claiming that it did not receive our quantity and value questionnaire until January 28, 2008, because it had changed locations and the questionnaire and other correspondence was sent to its old address. The company explained that it had been sending an employee to the old location on a weekly basis to collect mail that had been sent to that facility. In its letter, the company insisted that despite this, it only received our quantity and value questionnaire on January 28, 2008. The company also explained that it received a copy of the *Preliminary Determination* on January 30, 2008.

The Department's records in this case indicate that Goktas Tube received a copy of our abbreviated quantity and value questionnaire at its original location on August 2, 2008. Also, in addition to our abbreviated quantity and value questionnaire and a copy of the *Preliminary Determination*, Goktas Tube received a copy of our follow up letter, a copy of our August 17, 2007 letter to all interested parties (the proposed model match letter), a copy of the September 7, 2007, Memorandum to Stephen Claeys from Fred Baker (the respondent selection memorandum), and our September 7, 2007, letter to all interested parties (the public service list letter)[2] at its previous location. Our records indicate that our follow up letter, the proposed model match letter, the respondent selection memorandum, and the public service list letter were received at Goktas Tube's original location on August, 20, 2007, August 20, 2007, September, 10, 2007, and September, 10, 2007, respectively. *See* Memorandum to the File, dated March, 28, 2008. Goktas Tube made no mention of any of these other documents in its March 10, 2008, letter.

Despite Goktas Tube's claim that it did not receive our quantity and value questionnaire until January 28, 2008, we note that, according to its own account, the company did have a copy of our quantity and value questionnaire in its possession for six weeks before it notified the Department of the situation. Further, the company gave no explanation for this delay in its March 10, 2008, letter. On this basis, we conclude that Goktas Tube had the opportunity to contact the Department immediately when it realized the situation, but failed to do so. Therefore, we continue to conclude that Goktas Tube has failed to cooperate to the best of its ability, and accordingly, that the use of adverse facts available is warranted for Goktas Tube under sections 776 (a)(2) and (b) of the Act.

As we explained in the *Preliminary Determination*, the rate of 41.07 percent we selected as the adverse facts–available rate is the highest margin alleged in the petition. As discussed in the *Preliminary Determination*, we corroborated the adverse facts–available rate pursuant to section 776(c) of the Act.

All–Others Rate

As explained in the *Preliminary Determination*, we continue to assign as the all–others rate a simple average of the rates in the petition, that is, 27.04 percent. *See Preliminary Determination*, at 5513 and 5514.

Final Determination of Investigation

We determine that the following weighted–average dumping margins exist for the period April 1, 2006, through March 31, 2007:

Weighted–Average Producer/Exporter	Margin (Percentage)
Guven Boru Profil Sanayii ve Ticaret Limited Sirketi	41.71
MMZ Onur Boru Profil Uretim San. ve Tic. A.S	41.71
Anadolu Boru	41.71
Ayata Metal Industry	41.71
Goktas Tube/Goktas Metal	41.71
Kalibre Boru Sanayi ve Ticaret A.S.	41.71
Kerim Celik Mamulleri Imalat ve Ticaret	41.71
Ozgur Boru	41.71
Ozmak Makina ve Elektrik Sanayi	41.71
Seamless Steel Tube and Pipe Co. (Celbor)	41.71
Umran Steel Pipe Inc.	41.71
Yusan Industries, Ltd.	41.71
Borusan Mannesmann Boru	27.04
Erbosan Erciyas Boru Sanayii ve Ticaret A.S.	27.04
Noksel Steel Pipe Co.	27.04
Ozborsan Boru San. ve Tic. A.S.	27.04
Ozdemir Boru Sanayi ve Ticaret Ltd. Sti.	27.04
Toscelik Profil ve Sac End. A.S	27.04
Yucel Boru ve Profil Endustrisi A.S.	27.04
All Others	27.04

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act and 19 CFR 351.211(b)(1), we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Turkey entered, or withdrawn from warehouse, for consumption on or after January 30, 2008, the date of the publication of the *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted–average margin, as indicated in the chart above, as follows: (1) the rate for the mandatory respondents will be the rate we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3)

[1] Kerim Celik Mamulleri Imalat ve Ticaret responded to our follow up letter, but its response was untimely,

[2] See Memorandum to the File, dated August 17, 2007.

the rate for all other producers or exporters will be 27.04 percent. These suspension–of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative, and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a 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. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: April 7, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–7833 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(C–570–926)

Sodium Nitrite from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of sodium nitrite from the People's Republic of China (PRC). For information on the countervailable subsidy rates, *see* the ''Suspension of Liquidation'' section of this notice. *See* the ''Disclosure and Public Comment'' section below for procedures on filing comments regarding this preliminary determination.

EFFECTIVE DATE: April 11, 2008.

FOR FURTHER INFORMATION CONTACT: Sean Carey or Gene Calvert, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3964 and (202) 482–3586, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On November 28, 2007, the Department initiated a countervailing duty (CVD) investigation of sodium nitrite from the PRC. *See Sodium Nitrite from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 72 FR 68568 (December 5, 2007) (*Initiation Notice*). On December 26, 2007, the Department selected, as mandatory company respondents, the two largest publicly identifiable Chinese producers/exporters of sodium nitrite to the United States: Shanxi Jiaocheng Hongxing Chemical Co., Ltd. (Shanxi Jiaocheng) and Tianjin Soda Plant, together with its subsidiary company, Tianjin Port Free Trade Zone Pan Bohai International Trading Co., Ltd. (Tianjin Soda Plant). *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, ''Respondent Selection,'' dated December 26, 2007. A public version of this memorandum is on file in Import Administration's Central Records Unit (CRU), Room 1117 of the main Department of Commerce building. On that same day, the Department issued a CVD investigation questionnaire to the Government of the People's Republic of China (GOC). The letter accompanying this questionnaire informed the GOC that it was responsible for completing and submitting a response to certain sections of this questionnaire and that it was also responsible for forwarding copies of the questionnaire to the two mandatory respondents subject to this CVD investigation. Questionnaire responses were not submitted in this investigation by either the GOC or the two mandatory company respondents.

On December 21, 2007, General Chemical LLC (petitioner) submitted two new subsidy allegations concerning preferential tax and loan policies for the coal chemical industry, which petitioner alleged benefited the production of sodium nitrite. On January 24, 2008, petitioner submitted additional information regarding these new subsidy allegations. On March 24, 2008, the Department determined that the requirements of section 702 of the Tariff Act of 1930, as amended (the Act) were not met, and did not initiate an investigation of these newly alleged subsidies. For a complete discussion on the Department's decision not to initiate an investigation on these newly alleged programs, *see* Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, ''Countervailing Duty Investigation of Sodium Nitrite from the People's Republic of China: Analysis of New Subsidy Allegations,'' datedMarch 24, 2008, available in the CRU.

Scope of the Investigation

The merchandise covered by this investigation is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by this investigation may or may not contain an anti–caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti–rust, diazotizing salts, erinitrit, and filmerine. The chemical composition of sodium nitrite is $NaNO_2$ and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name ''sodium nitrite'' to sodium nitrite. The CAS registry number is 7632–00–0. For purposes of the scope of this investigation, the narrative description is dispositive, not the tariff heading, CAS registry number or CAS name, which are provided for convenience and customs purposes.

Injury Test

Because the PRC is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a United States industry. On December 26, 2007, the ITC transmitted its preliminary determination to the Department. *See Sodium Nitrite from China and Germany: Investigation Nos. 701–TA–453 and 731–TA–1136–1137 (Preliminary*), dated December 26, 2007. On January 14, 2008, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports from the PRC of subject merchandise. *See Sodium Nitrite from China and Germany*, 73 FR 2278.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is calendar year 2006. *See* 19 CFR 351.204(b)(2).

Application of the Countervailing Duty Law to Imports from the PRC

On October 25, 2007, the Department published the final countervailing duty determination on coated free sheet paper from the PRC. *See Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) and the accompanying *Issues and Decision Memorandum* (*China CFS Final*). In that determination, the Department found that ''given the substantial differences between the Soviet–style economies and the PRC's economy in recent years, the Department's previous decision not to apply the CVD law to these Soviet–style economies does not act as a bar to proceeding with a CVD investigation involving products from China.'' *See China CFS Final* at Comment 6; *see also* Memorandum to David M. Spooner, ''Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China – Whether the Analytical Elements of the *Georgetown Steel* Opinion are Applicable to China's Present–Day Economy,'' dated March 29, 2007.[1]

Recently, the Department has preliminarily determined that it is appropriate and administratively desirable to identify a uniform date from which the Department will identify and measure subsidies in the PRC for purposes of CVD law. *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances and; Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 72 FR 63875 (November 13, 2007) (*CWP Prelim*); *see also Light–walled Rectangular Pipe and Tube from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 72 FR 67703 (November 30, 2007); *Laminated Woven Sacks from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances, In Part; and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 72 FR 67893 (December 3, 2007); *Certain New Pneumatic Off–the-Road Tires from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 72 FR 71360 (December 17, 2007) and; *Raw Flexible Magnets from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 73 FR 9998 (February 25, 2008).

For the reasons stated in *CWP Prelim*, we are using the date of December 11, 2001, the date on which the PRC became a member of the WTO, as the date from which the Department will identify and measure subsidies in the PRC for purposes of this preliminary determination.

Application of Facts Otherwise Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply ''facts otherwise available'' if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in a form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding or; (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

In the instant case, the GOC and the two mandatory respondents, Shanxi Jiaocheng and Tianjin Soda Plant, did not respond to the Department's December 26, 2007 CVD investigation questionnaire. As a result, the GOC and the two mandatory company respondents did not provide the requested information that is necessary for the Department to determine whether the mandatory company respondents benefitted from countervailable subsidies, and to calculate a CVD rate, where applicable, for this preliminary determination. Therefore, in reaching this preliminary determination, pursuant to section 776(a)(2)(C) of the Act, the Department has based the CVD rates for Shanxi Jiaocheng and for Tianjin Soda Plant on facts otherwise available.

Application of an Adverse Inference

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

For purposes of this investigation, the Department has determined that, in

[1] We have placed this document on the record of this investigation (*see* Memorandum to the File, ''Placing the *Georgetown Steel Memorandum* on the Record of the Investigation of Sodium Nitrite from the People's Republic of China,'' dated concurrently with this notice.)

selecting from among the facts available, an adverse inference is warranted, pursuant to section 776(b) of the Act. On January 24, 2008, the Department communicated to the GOC that the February 1, 2008 deadline for the GOC and for Shanxi Jiaocheng and Tianjin Soda Plant to file responses to the Department's initial CVD investigation questionnaires was approaching and, that the Department routinely considers requests for additional time for filing questionnaire responses as long as the requests are properly filed. *See* the January 29, 2008 Memorandum to the File from Dana S. Mermelstein, Program Manager, Office 6, AD/CVD Operations, ''Countervailing Duty Investigation of Sodium Nitrite from the People's Republic of China, Communication with the Chinese Embassy,'' a public document on file in the CRU. No requests for extension were submitted, nor were any questionnaire responses.

Because the GOC and the mandatory company respondents, Shanxi Jiaocheng and Tianjin Soda Plant, did not respond to the Department's CVD investigation questionnaire, the Department preliminarily finds that the GOC, Shanxi Jiaocheng, and Tianjin Soda Plant did not cooperate to the best of their ability in this investigation. Therefore, we preliminarily find that an adverse inference is warranted to ensure that the Shanxi Jiaocheng and Tianjin Soda Plant will not obtain a more favorable result than had each company and the GOC fully complied with the Department's request for information. Accordingly, in those instances in which it determines to apply AFA, the Department, in order to satisfy itself that such information has probative value, will examine, to the extent practicable, the reliability and the relevance of the information used.

Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any information placed on the record. In selecting the AFA rate, it is the Department's practice to select, where possible, the highest calculated final net subsidy rate for the same type of program at issue. Where such information is not available, it is the Department's practice to apply the highest subsidy rate for any program otherwise listed. *See*, *e.g.*, *China CFS Final* at Comment 24.

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See SAA* at 870. In choosing the appropriate balance between providing a respondent with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior experience, selecting the highest prior margin ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *See Rhone Poulenc, Inc. v. United States*, 899 F. 2d 1185, 1190 (Fed. Cir. 1990).

As discussed above, the Department preliminarily determines that Shanxi Jiaocheng and Tianjin Soda Plan have each failed to act to the best of its ability in this investigation; thus, for each program examined, the Department has made the adverse inference that each company benefitted from the program, consistent with our practice. *See*, *e.g.*, *Certain Cold–Rolled Carbon Steel Flat Products from Korea; Final Affirmative Countervailing Duty Determination*, 67 FR 62102 (October 3, 2002); *see also Final Affirmative Countervailing Duty Determination: Prestressed Concrete Steel Wire Strand From India*, 68 FR 68356 (December 8, 2003) and *China CFS Final* at Comment 24.

Information from the petition indicates that during the POI, the standard income tax for corporations in China was 30 percent; there was an additional local income tax rate of three percent. *See* the November 8, 2007 letter from Crowell and Moring, counsel to petitioner, to the Secretary of Commerce, at Exhibit IV–12. To calculate the program rate for the 16 alleged income tax programs under which companies receive either a reduction or exemption of income tax, we have applied an adverse inference that Shanxi Jiaocheng and Tianjin Soda Plant paid no income taxes during the POI. Therefore, the highest possible countervailable benefit for the 16 national, provincial, and local income tax programs subject to this investigation combine to total 33 percent. Thus, we are applying a countervailable rate of 33 percent on an overall basis for the 16 income tax programs (*i.e.*, the 16 income tax programs combined provided a countervailable benefit of 33 percent). This 33 percent AFA rate does not apply to tax credit or tax refund programs. For the remaining programs subject to this investigation (including income tax credit and income tax refund programs), we are applying, where applicable, the highest countervailable subsidy rate that was calculated in *China CFS Final* for a similar ''type'' of program (*i.e.*, subsidy programs regarding income tax, value–added tax (VAT), and government–provided grants and loans). *See China CFS Final* at Comment 24.[2] Absent a subsidy rate for a similar type of program, we are applying the highest countervailable subsidy rate for any program otherwise listed in *China CFS Final*. *Id.*

For a discussion of the application of the individual AFA rates for programs preliminarily determined to be countervailable, *see* Memorandum to the File, ''Application of Adverse Facts Available Rates for Mandatory Company Respondents,'' dated concurrently with this notice (*Sodium Nitrite Calculation Memo*). Attached to this memorandum is a copy of the *China CFS Final* which contains the public information concerning subsidy programs, including the subsidy rates, upon which we are relying as adverse facts available. The Department has no other information on the record of this proceeding from which to select appropriate AFA rates for any of the subject programs, and because this is an investigation, we have no previous segments of the proceeding from which to draw potential AFA rates. *See Sodium Nitrite Calculation Memo* at Attachment II.

Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as ''{i}nformation derived from the petition that gave rise to the investigation or review, the final

[2] *China CFS Final* is currently the sole PRC CVD investigation for which we have a final determination.

determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See Statement of Administrative Action* (SAA) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). The SAA provides that to ''corroborate'' secondary information, the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *See* SAA at 869.

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company–specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Where circumstances indicate that the information is not appropriate as adverse facts available, the Department will not use it. *See, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996). In the instant case, no evidence has been presented or obtained which contradicts the relevance of the information relied upon in a prior China CVD investigation. Therefore, in the instant case, the Department preliminarily finds that the information used has been corroborated to the extent practicable.

Programs Preliminarily Determined to be Countervailable

As discussed above, as adverse facts available, we are making the adverse inference that Shanxi Jiaocheng and Tianjin Soda Plant each received countervailable subsidies under the 32 subsidy programs upon which the Department initiated CVD investigations, listed below. For a description of these 32 programs, *see* the *Initiation Checklist*. For the identification of the source of each program's AFA rate for this countervailing duty investigation, *see Sodium Nitrite Calculation Memo* at Attachment II.

	Subsidy Rate
GOC Loan Program	
1. Loans and Interest Subsidies Related to the Northeast Revitalization Program	4.11%
GOC Grant Programs	
2. State Key Technology Renovation Project Fund	4.11%
3. Grants to Loss–Making State–Owned Enterprises (SOEs)	4.11%
GOC Provision of Goods or Services for Less than Adequate Remuneration (LTAR)	
4. Provision of Electricity to SOEs for LTAR	4.11%
5. Provision of Land to SOEs for LTAR	4.11%
GOC and Local Income Tax Programs[3]	33.00%
6. Income Tax Exemption for Export–Oriented Foreign Invested Enterprises (FIEs)	
7. Preferential Tax Policies for FIEs (Two Free, Three Half Program)	
8. Reduced Income Tax Rates for FIEs Based on Location	
9. Reduced Income Tax Rate for New- or High–Technology Enterprises	
10. Preferential Tax Policies for Research & Development by FIEs	
11. Reduced Income Tax Rates for FIEs Under the West Revitalization Program	
12. Income Tax Reduction or Exemption for Export–Oriented or High–Technology Enterprises Under the West Revitalization Program	
13. Preferential Tax Policies Under the West Revitalization Program	
14. Jiangsu Province Tax Programs	
15. Zhejiang Province Tax Programs	
16. Guangdong Province Tax Programs	
17. Shandong Province Tax Programs	
18. Beijing Municipality Tax Programs	
19. Tianjin Municipality Tax Programs	
20. Shanghai Municipality Tax Programs	
21. Chongqing Municipality Tax Programs	
GOC Tax Refund Program	
22. Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export–Oriented Enterprises	4.11%
GOC Tax Credit Programs	
23. Income Tax Credits on Purchases of Domestically–Produced Equipment by Domestically–Owned Companies	4.11%
24. Income Tax Credits on Purchases of Domestically–Produced Equipment by FIEs	4.11%
GOC Indirect Tax Programs and Import Tariff Programs	
25. Value Added Tax (VAT) Rebate for FIE Purchases of Domestically–Produced Equipment	1.51%
26. VAT and Tariff Exemptions for FIEs	1.51%
Provincial Loan Program	
27. Reduced Interest Rate Loans Provided by Liaoning Province	4.11%
Provincial Grant Programs	
28. Provincial Export Interest Subsidies (Guangdong & Zhejiang Provinces)	4.11%
29. Guangdong Province Funds for Outward Expansion of Industries	4.11%
Provincial and Local Provision of Goods or Services for LTAR	
30. Provision of Land for LTAR (Jiangsu & Zhejiang Provinces, and Chongqing Municipality)	4.11%
31. Provision of Electricity for LTAR (Jiangsu & Zhejiang Provinces)	4.11%
32. Provision of Water for LTAR (Zhejiang Province)	4.11%

	Subsidy Rate
Total Countervailable Subsidy Rate	93.56%

[3] As discussed above, as AFA, we are applying an adverse inference that the mandatory respondents paid no income tax during the POI. The standard corporate income tax rate for corporations in China is 30 percent, plus an additional provincial tax of three percent. Thus, when combining the potential subsidy benefits from these 16 income tax programs, the highest possible subsidy benefit cannot exceed 33.00 percent. Therefore, we are applying the 33.00 percent AFA rate on a combined basis (*i.e.*, the 16 income tax programs combine to provide a 33.00 percent benefit).

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have assigned a subsidy rate to each of the two producers/exporters of the subject merchandise that were selected as mandatory respondent companies in this CVD investigation. We preliminarily determine the total countervailable subsidy to be:

Producer/Exporter	Countervailable Subsidy Rate
Shanxi Jiaocheng Hongxing Chemical Co., Ltd.	93.56 percent *ad valorem*
Tianjin Soda Plant & Tianjin Port Free Trade Zone Pan Bohai International Trading Co., Ltd. (Subsidiary)	93.56 percent *ad valorem*
All–Others	93.56 percent *ad valorem*

With respect to the all–others rate, section 705(c)(5)(A)(ii) of the Act provides that if the countervailable subsidy rates established for all exporters and producers individually investigated are determined entirely in accordance with section 776 of the Act, the Department may use any reasonable method to establish an all–others rate for exporters and producers not individually investigated. In this case, the rate calculated for the two investigated companies is based entirely on facts available under section 776 of the Act. There is no other information on the record upon which we could determine an all–others rate. As a result, we have used the AFA rate assigned for Shanxi Jiaocheng and Tianjin Soda Plant as the all–others rate. This method is consistent with the Department's past practice. *See Final Affirmative Countervailing Duty Determination: Certain Hot–Rolled Carbon Steel Flat Products From Argentina*, 66 FR 37007, 37008 (July 16, 2001); *see also Final Affirmative Countervailing Duty Determination: Prestressed Steel Wire Strand From India*, 68 FR 68356, 68357 (December 8, 2003).

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing U.S. Customs and Border Protection to suspend liquidation of all entries of the subject merchandise from the PRC, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or the posting of a bond for such entries of the merchandise in the amounts indicated above. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non–privileged and non–proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), the Department will disclose to the parties the calculations for this preliminary determination within five days of its announcement.

No party has submitted a notice of appearance on behalf of the GOC or the mandatory company respondents, and questionnaire responses were not submitted in this investigation by either the GOC or the two mandatory company respondents. Thus, the Department does not intend to conduct verification proceedings in this countervailing duty investigation. For these reasons, the due date for interested parties to submit case briefs will be 30 days from the date of publication of the preliminary determination. *See* 19 CFR 351.309(c)(i). As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages, and a table of statutes, regulations, and cases cited pursuant to 19 CFR 351.309(c)(2). Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case briefs are filed in accordance with 19 CFR 351.309(d).

In accordance with 19 CFR 351.310(c), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Individuals who wish to request a hearing must submit a written request, pursuant to 19 CFR 351.301(c), within 30 days of the publication of this notice in the **Federal Register**, to the Assistant Secretary for Import Administration, Department of Commerce, Room 1870, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Pursuant to 19 CFR 351.310(c), parties will be notified of the schedule for the hearing and parties should confirm by telephone the time, date, and place of the hearing 48 hours before the schedule time. Requests for a public hearing should contain: (1) party's name, address, and telephone number; (2) the number of participants and; (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

This determination is issued and published pursuant to sections 703(f) and 771(i) of the Act and 19 CFR 351.221(b)(4).

Dated: April 7, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–7798 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Permits for Incidental Taking of Endangered or Threatened Species

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before *June 10, 2008*.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Naomi Lundberg, (301) 713–1401 or *Naomi.Lundberg@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et. seq.*) imposed prohibitions against the taking of endangered species. In 1982, Congress revised the ESA to allow permits authorizing the taking of endangered species incidental to otherwise lawful activities. The corresponding regulations (50 CFR 222.22) established procedures for persons to apply for such a permit. In addition, the regulations set forth specific reporting requirements for such permit holders.

The regulations contain three sets of information collections: (1) Applications for incidental take permits, (2) applications for certificates of inclusion, and (3) reporting requirements for permits issued. Certificates of inclusion are only required if a general permit is issued to a representative of a group of potential permit applicants, rather than requiring each entity to apply for and receive a permit.

The required information is used to evaluate the impacts of the proposed on endangered species, to make the determinations required by the ESA prior to issuing a permit, and to establish appropriate permit conditions.

When a species is listed as threatened, section 4(d) of the ESA requires the Secretary to issue whatever regulations are deemed necessary or advisable to provide for conservation of the species. In many cases those regulations reflect blanket application of the section 9 take prohibition. However, the National Marine Fisheries Service (NMFS) recognizes certain exceptions to that prohibition, including habitat restoration actions taken in accord with approved state watershed action plans. While watershed plans are prepared for other purposes in coordination with or fulfillment of various state programs, a watershed group wishing to take advantage of the exception for restoration activities (rather than obtaining a section 10 permit) would have to submit the plan for NMFS review.

II. Method of Collection

Currently, most information is collected on paper, but in some instances, there is electronic access and capability.

III. Data

OMB Number: 0648–0230.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, and state, local, or tribal government.

Estimated Number of Respondents: 13.

Estimated Time per Response: 80 hours for a permit application (including Habitat Conservation Plans), 30 minutes for an application for a Certificate of Inclusion; 8 hours for a permit report, and 10 hours for a watershed plan.

Estimated Total Annual Burden Hours: 1,048.

Estimated Total Annual Cost to Public: $660.

IV. Request for Comments

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 (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 7, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–7653 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 080307398–8516–02]

NOAA Bay Watershed Education and Training (B–WET) Program; Correction

AGENCY: Office of Education (OED), Office of the Under Secretary (USEC), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of funding availability; correction.

SUMMARY: This notice corrects an error contained in the notice published in the **Federal Register** on March 17th, 2008. That notice announced the Bay Watershed Education and Training (B-WET) Program competition and contained incorrect dates.

DATES: Proposals must be received by 5 p.m. EST on April 18th, 2008.

FOR FURTHER INFORMATION CONTACT: For the Pacific Northwest, please contact Seaberry Nachbar, NOAA National Marine Sanctuary, 299 Foam Street, Monterey, CA 93940, or by phone at 831–647–4201, or via internet at *seaberry.nachbar@noaa.gov*; For the northern Gulf of Mexico, Stephanie Bennett, Pacific Services Center, 737 Bishop Street, Suite 1550, Honolulu, HI 96817, or by phone at 808–522–7481, or via internet at *stephanie.bennett@noaa.gov*; For New England, Shannon Sprague, NOAA Chesapeake Bay Office, 410 Severn Avenue, Suite 107A, Annapolis, MD 21403, or by phone at 410–267–5664, or via internet at *shannon.sprague@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Correction

The announcement for the NOAA Bay Watershed Education and Training (B–WET) Program competition on March

17, 2008 (73 FR 14222), listed the application deadline as April 16, 2008. The correct application deadline is 5 p.m. EST, April 18, 2008.

Intergovernmental Review

Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

Limitation of Liability

In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

National Environmental Policy Act (NEPA)

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA Federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: *http://www.nepa.noaa.gov/*, including our NOAA Administrative Order 216–6 for NEPA, *http://www.nepa.noaa.gov/NAO216_6_TOC.pdf*, and the Council on Environmental Quality implementation regulations, *http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm*. Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for not selecting an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

Department of Commerce Pre-Award Notification

Requirements for Grants and Cooperative Agreements

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of February 11, 2008 (73 FR 7696), are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, and SF–LLL and CD–346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

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

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements for the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Helen Hurcombe,

Director, Acquisition and Grants Office.

[FR Doc. E8–7708 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH15

Notice of Availability of a Draft Environmental Impact Statement and Habitat Conservation Plan

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

ACTION: Notice; availability of documents for public comment and public hearings.

SUMMARY: This notice announces the availability of the Draft Environmental Impact Statement (DEIS) and draft habitat conservation plan (HCP) for public review and comment. The City of Portland (City) has submitted an application to the National Marine Fisheries Service (NMFS) for an incidental take permit under section 10 of the Endangered Species Act (ESA) of 1973 as amended. The HCP also serves as the basis of an application to NMFS that they take steps under the ESA to limit the application of the prohibition against take of listed salmon and steelhead so that it does not apply to the continued operation and maintenance of the Bull Run water supply system.

DATES: Written comments on the draft HCP, Implementation Agreement and DEIS will be accepted for a period of 60 days, ending at 5 p.m. Pacific Time on May 27, 2008. Written comments may be sent by mail, facsimile, or e-mail to the addresses listed below.

ADDRESSES: Please address written comments to Nancy Munn, National Marine Fisheries Service, 1201 NE Lloyd Blvd, Suite 1100, Portland, Oregon 97232, facsimile (503) 231–6893. Please send e-mail comments to: *BullRunHCP.nwr@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: For further information, or to receive the documents on CD ROM, please contact Nancy Munn, Project Manager, National Marine Fisheries Service, (503) 231–6269.

SUPPLEMENTARY INFORMATION: The documents being made available include: (1) the proposed habitat

conservation plan; (2) the proposed Implementing Agreement; and (3) the draft environmental impact statement (DEIS). This notice is provided pursuant to the ESA and the National Environmental Policy Act (NEPA) of 1969, as amended. The NMFS is furnishing this notice to allow other agencies and the public an opportunity to review and comment on these documents. All comments received will become part of the public record for this action. Hard bound copies of the conservation plan, Implementation Agreement, and DEIS are available for viewing, or partial or complete duplication, at all Oregon State libraries and the main Multnomah County Library in Portland, Oregon.

Background

Section 9 of the ESA and Federal regulations prohibit the unauthorized ''taking'' of a species listed as endangered or threatened. The term take is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm is defined to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3, 50 CFR 222.102). NMFS further defines harm to include significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, spawning, migrating, rearing, and sheltering (64 FR 60727). The NMFS may issue incidental take permits, under section 10(a)(1)(B) of the ESA, to take listed species incidental to, and not the purpose of, otherwise lawful activities. NMFS regulations governing permits for federally endangered and threatened species are promulgated under 50 CFR 222.307. NMFS also may issue a rule under section 4(d) of the ESA, providing for the conservation of threatened species while authorizing incidental take under certain conditions. The Bull Run watershed has been used by the City for water supply since 1895. The City's water system provides water to residents and businesses within the City as well as to a number of surrounding communities. As a result of the listing of several salmon and steelhead species in Oregon State in the mid to late 1990s, the City was concerned about compliance with the ESA and other Federal regulations, and water supply reliability and affordability. The presence and operation of the water system infrastructure creates impacts on habitat for several species of listed fish because of changes in river flow, river temperature, and aquatic and riparian habitat. The City's conservation plan includes 49 habitat conservation measures to protect and improve water quality and habitat for aquatic species within the boundaries of the Sandy River Basin.

The City has applied to: (1) obtain an incidental take permit, pursuant to section 10(a)(1)(B) of the ESA for endangered, threatened and covered species; and, (2) request from the NMFS a limitation on the application of the prohibition against take, pursuant to section 4(d) of the ESA for identified threatened species only, for activities associated with the continued operation and maintenance of the Bull Run water supply system. The activities associated with the continued operation and maintenance of the Bull Run water supply system are described in the draft HCP and Implementing Agreement and serve as documentation that the conservation plan meets the requirements of section 4(d) as well as section 10. Each of these activities is represented as an alternative in the DEIS. Activities proposed for coverage under the incidental take permits or for a limitation on the application of the prohibition against take include the following: (1) operation, maintenance, and repair of the water system; (2) implementation of habitat conservation, research, and monitoring measures; and (3) incidental land management activities. The proposed incidental take permits would authorize the take of the following federally threatened species incidental to otherwise lawful activities: Lower Columbia River chinook salmon (*Oncorhynchus shawytscha*), Lower Columbia River steelhead (*O. mykiss*), Lower Columbia River coho salmon (*O. keta*), and Columbia River chum salmon (*O. keta*).

The draft HCP also includes conservation measures and effects analyses for 18 fish and wildlife species under the jurisdiction of the U.S. Fish and Wildlife Service. The species included are those most likely to be affected by water system operations and/or benefited by measures designed for the anadromous fish.

The proposed duration of the incidental take permit and conservation plan would be 50 years, though many aspects of the plan's conservation strategy are intended to benefit aquatic species and their habitat long into the future. The NMFS formally initiated an environmental review of the project through publication of a Notice of Intent to prepare an Environmental Impact Statement in the **Federal Register** on March 27, 2006 (71 FR 15168). That document also announced a public scoping period during which interested parties were invited to provide written comments expressing their issues or concerns relating to the proposal and to attend one of two public scoping meetings held in Portland, Oregon. Based on public scoping comments, NMFS has prepared a DEIS to analyze the effects of alternatives on the human environment. Implementation of the City's conservation plan, including issuance of the associated incidental take permits from NMFS for threatened species is Alternative 2 in the DEIS. Three other alternatives are analyzed in the DEIS including: Alternative 1, no action, in that the incidental take permit would not be issued to the City; and Alternative 3, providing fish passage facilities at the two dams on the Bull Run River.

This document is provided pursuant to the ESA and NEPA regulations. NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the applications meet the requirements of the ESA and NEPA. The NMFS will revise the DEIS in a Final Environmental Impact Statement. The NMFS' decisions whether to issue an incidental take permit or limits on the application of the prohibition against take will be made upon completion of the Endangered Species Act determinations and Final Environmental Impact Statement and associated Record of Decision.

Public Meetings

The NMFS has scheduled two public meetings to receive comments from the public concerning the DEIS and draft HCP. (1) Monday April 28, 2008, 5:30 p.m. to 8:30 p.m., East Portland Community Center, Multipurpose Room 1, 740 SE 106th Ave, Portland, Oregon(2) Tuesday, April 29, 2008, 5:30 p.m. to 8:30 p.m., Lovejoy Room, Portland City Hall, 1221 SW 4th Ave., Portland, Oregon.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Nancy Munn, (503) 231–6893 at least 5 working days prior to the meeting date.

Dated: April 7, 2008.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–7821 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 070727423–8495–02]

RIN 0648–XB75

Endangered and Threatened Species; Notice of Finding on a Petition to List the Lynn Canal Population of Pacific Herring as a Threatened or Endangered Species

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

ACTION: Notice of finding; initiation of status review.

SUMMARY: We, NMFS, announce a 12–month finding on a petition to list Lynn Canal Pacific Herring (*Clupea pallasi*) as a threatened or endangered Species under the Endangered Species Act (ESA). After a formal review of the best available scientific and commercial information, we find that listing Lynn Canal Pacific herring as threatened or endangered under the ESA is not warranted because this population does not constitute a species, subspecies, or distinct population segment (DPS) under the ESA. However, the Lynn Canal population is part of a larger DPS of Pacific herring that may warrant listing under the ESA, and, therefore, we initiate a status review to evaluate its status.

DATES: The finding announced in this notice is effective immediately.

ADDRESSES: The complete file for this finding is available for public inspection by appointment during normal business hours at the office of NMFS Alaska Region, Protected Resources Division, 709 West Ninth Street, Room 461, Juneau, AK 99801. This file includes the status review report, information provided by the public, and scientific and commercial information gathered for the status review.

FOR FURTHER INFORMATION CONTACT: Erika Phillips, NMFS Alaska Region, (907) 586–7312, Kaja Brix, NMFS Alaska Region, (907) 586–7235 or Marta Nammack, NMFS Office of Protected Resources, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (ESA) requires that when a petition to revise the List of Endangered and Threatened Wildlife and Plants is found to present substantial scientific and commercial information, we make a finding on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. This finding is to be made within 1 year of the date the petition was received, and the finding is to be published promptly in the **Federal Register**.

On April 2, 2007, we received a petition to designate the Lynn Canal stock of Pacific herring (*Clupea pallasi*) as a threatened or endangered DPS under the ESA. The petition was submitted by the Juneau Group of the Sierra Club, Juneau, Alaska. The Petitioner also requested that we designate critical habitat for Lynn Canal Pacific herring concurrent with listing under the ESA.

After reviewing the petition, the literature cited in the petition, and other literature and information available in our files, we found that the petition met the requirements of the regulations under 50 CFR 424.14(b)(2) and determined that the petition presented substantial information indicating that the petitioned action may be warranted. This finding was published on September 10, 2007 (72 FR 51619). At that time, we commenced a status review of Lynn Canal herring and solicited information pertaining to the stock structure and status of Pacific herring in southeast Alaska, including Lynn Canal.

Status Review

In order to determine whether the Lynn Canal Pacific herring population constitutes a species that warrants protection under the ESA, we convened a Biological Review Team of Federal scientists with expertise in Pacific herring biology, fish genetics and stock delineations, population ecology of forage fishes, nearshore marine ecology, fisheries stock assessment, and herring population status reviews. This expert panel reviewed Pacific herring life history, genetics data, stock structure research, information on larval distribution and transport, spawning distributions, tagging studies, metapopulation research, and other published and unpublished literature and data on herring stocks throughout the eastern North Pacific.

For the purposes of the ESA, Congress has defined a species as ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature'' (16 U.S.C. 1532(16)). Guidance on what constitutes a distinct population segment (DPS) is provided by the joint NMFS-USFWS interagency DPS policy (61 FR 4722; February 7, 1996). In order to be classified as a DPS, a vertebrate population must meet two criteria - discreteness and significance. A population, or group of populations, must first be ''discrete'' from other populations and then ''significant'' to the taxon (species or subspecies) to which it belongs.

According to the joint DPS policy, a population segment may be considered discrete if it satisfies either one of the following conditions: (1) it is markedly separated from other populations of the same biological 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 across which there is a significant difference in exploitation control, habitat management or conservation status. If a population is determined to be discrete, the agency must then consider whether it is significant to the taxon to which it belongs. When evaluating the significance of a discrete population, we consider the following: (1) persistence of the discrete population in an unusual or unique ecological setting for the taxon; (2) evidence that the loss of the discrete population segment would cause a significant gap in the taxon's range; (3) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere outside its historical geographic range; or (4) evidence that the discrete population has marked genetic differences from other populations of the species.

We considered several types of data and information when evaluating the DPS structure and discreteness of populations of Pacific herring in Lynn Canal and the eastern North Pacific. This information included: geographic variability in life-history characteristics, physiology, and morphology; ecosystem and oceanographic conditions; spawn timing and locations; tagging and recapture studies that would indicate the extent of migration and intermingling among stocks; and studies of genetic differentiation among stocks

that would suggest some degree of reproductive isolation.

After analyzing the best available scientific and commercial information, we conclude that Lynn Canal Pacific herring are not markedly discrete from other Pacific herring populations. The following evidence suggests that Lynn Canal Pacific herring are not markedly discrete: (1) there are no known genetic differences between the Lynn Canal stock and other stocks in Southeast Alaska; (2) spawn timing in Lynn Canal does not differ significantly from the timing of other Southeast Alaska stocks, but instead appears to follow a natural gradient based on climatic conditions; (3) growth rates, length-at-age, and weight-at-age of Lynn Canal Pacific herring are not significantly different from stocks elsewhere in Southeast Alaska; (4) tagging data are too limited to determine the extent of migration or degree of spawning site fidelity for individual southeast Alaska stocks; and (5) habitat conditions in Lynn Canal are not markedly different from those elsewhere in southeast Alaska. Therefore, we find that the best available scientific and commercial information does not support a finding that the Lynn Canal population is discrete from other nearby herring populations in Icy Strait, Seymour Canal, Sitka Sound, or other parts of southeast Alaska.

Furthermore, we conclude that, even if the evidence indicated that the Lynn Canal population is discrete, it is not significant with respect to the taxon. Lynn Canal does not provide a markedly unusual or unique ecological setting for herring; the population exists in a relatively small geographic area in close proximity to other herring populations, such that the loss of the population segment would not result in a significant gap in the range of a taxon; the population is not the only surviving natural occurrence of the taxon, but rather is one small part of an abundant, widely distributed taxon; and no evidence indicates that the population segment differs markedly from other populations of Pacific herring in its genetic characteristics. Because the Lynn Canal population does not meet the primary criteria required for recognition as a DPS, we conclude that the Pacific herring population in Lynn Canal does not constitute a DPS as defined under the ESA.

Description of Southeast Alaska DPS

Through the Status Review process, we have determined that the Lynn Canal Pacific herring stock is part of a larger, regional Southeast Alaska DPS. The Southeast Alaska DPS of Pacific herring extends from Dixon Entrance northward to Cape Fairweather and Icy Point and includes all Pacific herring stocks in Southeast Alaska.

Discreteness

The delineation of the southern boundary is based on genetic differences between herring in Southeast Alaska and those in British Columbia, as well as differences in recruitment and average weight-at-age, parasitism, spawn timing and locations, and the results of tagging studies conducted in British Columbia. The northern boundary is defined by physical and ecological features that create migratory barriers, as well as large stretches of exposed ocean beaches that are devoid of spawning and rearing habitats.

Significance

Given the large scope of this geographic area and the large number of stocks found throughout Southeast Alaska, we have determined that the Southeast Alaska Pacific herring population is significant to the taxon as a whole. Specifically, the Southeast population persists in a unique ecological setting, and the extirpation of this population of Pacific herring would result in a significant gap in the range of the taxon.

DPS Conclusion

Because the Southeast Alaska population of Pacific herring meets the discreteness and significance criteria of the joint USFWS-NMFS DPS policy, this regional population constitutes a DPS under the ESA.

Next Steps

In order to determine whether this Southeast Alaska DPS of Pacific herring warrants protection under the ESA, we will proceed with a status review of the Southeast Alaska DPS described above. Because we have formally announced the initiation of a status review for the Southeast Alaska DPS of Pacific herring, we consider this DPS to be a candidate species under the ESA. The status review for this candidate species will include an analysis of extinction risk, an assessment of the factors listed under section 4(a)(1) of the ESA, and an evaluation of conservation efforts for the DPS as a whole. The results of the expanded status review and our determination on the status of the Southeast Alaska DPS of Pacific herring will be published in a subsequent **Federal Register** notice.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 7, 2008.

Samuel D. Rauch III,

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

[FR Doc. E8–7797 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH16

Pacific Whiting; Joint Management Committee and Scientific Review Group

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

ACTION: Notice.

SUMMARY: NMFS is soliciting nominations for two advisory groups called for in the Pacific Whiting Act of 2006 (Act). Nominations received pursuant to this notice will be used to appoint one U.S. offshore whiting commercial sector representative to the Joint Management Committee and two U.S. representatives to the Scientific Review Group.

DATES: Nominations must be received by May 12, 2008.

ADDRESSES: You may submit nominations by any of the following methods:

- E-mail: WhitingReps.nwr@noaa.gov: Include 0648–XH16 in the subject line of the message.
- Fax: 206–526–6736, Attn: Frank Lockhart.
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA, 98115–0070.

Each submission should be specific to either the Joint Management Committee or the Scientific Review Group.

FOR FURTHER INFORMATION CONTACT: Frank Lockhart at 206–526–6142.

SUPPLEMENTARY INFORMATION: Title VI of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 entitled ''The Pacific Whiting Act of 2006,'' implements the 2003 treaty ''Agreement Between the Government of the United States of America and the Government

of Canada on Pacific Hake/Whiting.'' Among other provisions, the Whiting Act provides for the establishment of the Joint Management Committee (Sec. 603(a)(D)) and the Scientific Review Group (Sec. 604(a)) to advise the Joint U.S. Canada Management Committee on bilateral whiting management issues. For the establishment of these committees, the Act requires the Secretary of Commerce appoint:

(1) 1 individual to the Joint Management Committee that represents the U.S. ''commercial sector of the whiting fishing industry concerned with the offshore whiting resource;'' and,

(2) ''2 scientific experts to serve on the Scientific Review Group.''

Nominations are sought for the Secretary to consider in making these appointments.

Nomination Packages should include:

1. The name of the applicant or nominee and the committee or review group they are being nominated for; and,

2. A statement of background and/or description of how the nominee meets the requirements to represent the U.S. on the relevant committee or group.

In the initial year of treaty implementation, NMFS anticipates that up to 3 meetings for each group will be required. In subsequent years, 1–2 meetings will be held annually. Meetings will be held in the United States or Canada. Representatives will need a valid U.S. passport. Members appointed to represent the United States will be reimbursed for necessary travel expenses.

The Pacific Whiting Act of 2006 also states that while performing their appointed duties, members ''shall be considered to be Federal Employees only for purposes of: (1) injury compensation under chapter 81 of title 5, United States Code; (2) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18, United States Code; and, (3) any other criminal or civil statute or regulation governing the conduct of Federal employees.''

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

Dated: April 7 2008.

Emily H. Menashes,

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

[FR Doc. E8–7792 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG84

Taking and importing of Endangered Species; Taking of Sea Turtles Incidental to Power Plant Operations

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

ACTION: Notice of receipt of applications for individual incidental take permits under the Endangered Species Act; request for comment and information.

SUMMARY: NMFS received seven applications for individual incidental take permits under the Endangered Species Act of 1973, as amended (ESA) from power generating stations located on the coast of southern California for the entrainment of sea turtles incidental to routine operations associated with power plant operations. As a result of these applications, NMFS is considering whether to issue the permits in accordance with the ESA authorizing the incidental taking of endangered species. In order to issue the permits, NMFS must determine that these takings will not appreciably reduce the likelihood of survival and recovery for the species and that habitat conservation plans meet the requirements of the ESA. NMFS provides this notice to allow public comment on the applications and conservation plans. NMFS also seeks additional commercial and scientific data relevant to the documents.

DATES: Written comments and information must be submitted before May 12, 2008.

ADDRESSES: Comments should be addressed to Russell Strach, NMFS Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA, 90802; facsimile: 916–930–3643; or may be submitted electronically to *0648–XG84@noaa.gov*. Copies of the applications may be obtained upon written request to this address, or by telephoning the persons below (see **FOR FURTHER INFORMATION CONTACT**)

FOR FURTHER INFORMATION CONTACT: Dan Lawson, 562–980–3209, or Lindsey Waller, 562–980–3230, NMFS Southwest Regional Office.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the ESA and Federal regulations prohibit the ''taking'' of a species listed as endangered or threatened. The term ''take''is defined under the ESA to mean harass, harm, pursue, hunt, shoot, would, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Section 10(a)(1)(B) ESA) authorizes the incidental taking of endangered or threatened species as long as such take is incidental, but not intentional, to an otherwise lawful activity, if certain determinations are made and a permit issued.

In order to issue the ESA section 10(a)(1)(B) permit, NMFS must find that: the taking will be incidental; the impacts will be mitigated to the maximum extent practicable; the taking will not appreciably reduce the likelihood of survival and recovery of the species; the habitat conservation plan reflects measures that NMFS deems necessary or appropriate; and there are adequate assurances that the conservation plan will be funded or implemented. NMFS regulations governing the issuance of permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Incidental live and lethal takings of threatened and endangered sea turtles, including green (*Chelonia mydas*), loggerhead (*Caretta caretta*), leatherback (*Dermochelys coriacea*), and olive ridley (*Lepidochelys olivacea*) have occurred or have a reasonable chance to occur, and are expected to continue to occur as a result of the operation of circulating water systems (CWS) by the electrical power generation plants located in southern California described in this incidental take permit application. These CWS are an integral part of these power stations that provide continuous cooling water necessary for power generation and safety of the facility. The typical location of entrainment occurs as water is taken into the plant via submerged structures or canals. Intake velocities may be strong enough to pull live animals into the plant, particularly if they are actively seeking prey in the vicinity of intake structures, or seeking shelter in the intake structure itself. Confinement within intake plumbing could lead to injury or death. If the animal is unable to escape, it could (1) drown or become fatally injured in transit between intake and large sedimentation basins within the plants known as forebays, (2) survive the transit and succumb in the forebay due to exhaustion, illness, or disease, or (3) survive the transit and be rescued by plant personnel using cages specially designed for such an activity. Decomposed turtles may also become entrained in the power plant intake structures.

The following is a list and brief description of the history and basic operational design of the 7 power generation stations and their conservation plans in the application for an incidental take permit.

Redondo Beach Generating Station (RBGS)

RBGS is a 1,310–megawatt (MW) facility owned by the AES Corporation (1998) and operated by the Southern California Edison Company. The Redondo Beach plant is located on the southern California coast in the city of Redondo Beach and consists of eight fossil-fueled steam-electric generating units. There are three intake structures which provide cooling water to the eight units. In 1987, four of the units and one of the intake structures were taken offline. The two remaining intakes supply Units 5 and 6 and Units 7 and 8, respectively, and draw in approximately 176,000 – 468,000 gallons of sea water per minute (gpm). A total of two live and one decomposed dead green sea turtles were entrained in the facility from 1982–2006.

The RBGS conservation plan anticipates the rare entrainment of sea turtles. Daily monitoring of the CWS is conducted to detect and report the presence of sea turtles. RBGS consultants have developed procedures to rescue live animals using cargo nets and return healthy turtles back to the ocean immediately. Injured turtles are released to a NMFS authorized animal rehabilitation facility. Full reports of all sea turtles found at the station are delivered to NMFS within one month of the incident. Training in sea turtle identification, rescue, tagging, and biological sampling are provided to Operations personnel. RBGS explored numerous options for reducing the impact on sea turtles but no physical measures are available that could effectively limit the entrainment of sea turtles. RBGS has proposed financial mitigation by offering $1,000 to a fund approved by NMFS for the preservation of sea turtles for the take of any sea turtle, attributable to the operation of the facility.

Huntington Beach Generating Station (HBGS)

HBGS is a nominal 900–MW facility owned by the AES Corporation (1998). The Huntington Beach plant is located on the southern California coast in the city of Huntington Beach, and consists of four fossil-fueled steam-electric generating units. A single intake supplies cooling water to all units. The maximum design flow through the intake is 352,000 gpm. No sea turtles were entrained from 1982–2006.

The HBGS conservation plan anticipates the rare entrainment of sea turtles. Daily monitoring of the CWS is conducted to detect and report the presence of sea turtles. HBGS consultants have developed procedures to rescue live animals using cargo nets and return healthy turtles back to the ocean immediately. Injured turtles are released to a NMFS authorized animal rehabilitation facility. Full reports of all sea turtles found at the station are delivered to NMFS within one month of the incident. Training in sea turtle identification, rescue, tagging, and biological sampling are provided to Operations personnel. HGBS explored numerous options for reducing the impact on sea turtles but no physical measures are available that could effectively limit the entrainment of sea turtles. HGBS has proposed financial mitigation by offering $1,000 to a fund approved by NMFS for the preservation of sea turtles for the take of any sea turtle, attributable to the operation of the facility.

Scattergood Generating Station (SGS)

SGS is an 830–MW facility owned by the City of Los Angeles and operated by the L.A. Department of Water and Power located in the City of Los Angeles near the western border of the California coastal town of El Segundo, which is located to the south of Marina Del Ray and the north of Redondo Beach in Los Angeles County. SGS is a three-unit gas-fueled steam-electric generating facility incorporating eight circulating water pumps in its once-through CWS. A single cooling water intake structure is shared by all units. Maximum combined flow for all units is approximately 495 million gallons per day, or about 343,750 gpm. A total of three green and two loggerhead sea turtles were entrained from 1982–2006 in the facility. All of these turtles were eventually released alive.

The SGS conservation plan anticipates the rare entrainment of sea turtles. Daily monitoring of the CWS is conducted to detect and report the presence of sea turtles. SGS consultants have developed procedures to rescue live animals using cargo nets and return healthy turtles back to the ocean immediately. Injured turtles are released to a NMFS authorized animal rehabilitation facility. Full reports of all sea turtles found at the station are delivered to NMFS within one month of the incident. Training in sea turtle identification, rescue, tagging, and biological sampling are provided to Operations personnel. SGS explored numerous options for reducing the impact on sea turtles but no physical measures are available that could effectively limit the entrainment of sea turtles. SGS has proposed financial mitigation by offering $1,000 to a fund approved by NMFS for the preservation of sea turtles for the take of any sea turtle, attributable to the operation of the facility.

Long Beach Generating Station (LBGS)

LBGS is 577–MW electric generating facility owned and operated by NRG Energy and is located in western Los Angeles County, situated in the City of Long Beach along the coast of the Pacific Ocean. The power plant is bounded on the west and south by the Port of Long Beach and on the north by the City of Long Beach. The current configuration of the Long Beach power plant was in operation from 1977 to 2005, when the electricity generation terminated. The intake structure consists of a single forebay area within the Cerritos Channel in the Port of Long Beach, along with two intake pipes. The cooling water intake is still operational but there is no heat added to the discharge since the power plant is idle. Approximately 365,000 gpm were drawn through the intake during normal operations. The CWS was scheduled to be permanently shut down as soon as the property's groundwater extraction and treatment system and storm water discharges were reconfigured. This was expected sometime in 2007; however, this procedure did not take place. Since then, plans have been developed and steps taken to resume power generation with four of the nine units at the station. The proposed reconstructed facility will not use a CWS to cool the generators, but it will remain in place. No sea turtles were entrained in the CWS from 1982–2006.

The LGBS conservation plan outlines the monitoring and reporting procedures required by NMFS in the event of a sea turtle take. The Southwest Region (SWR) Stranding Coordinator is immediately contacted after the discovery of a live or dead sea turtle. Completion and submission of a report, including photographs and biological information, is due to NMFS within 30 days of the incident. Training on handling and tagging procedures for sea turtles is provided to LBGS personnel. Because no sea turtle entrainments have been recorded to date, LGBS could not identify any practicable alternatives that would mitigate the existing condition related to its impact on sea turtles.

El Segundo Generating Station (ESGS)

ESGS is a 1,020–MW facility located in the City of El Segundo, owned and operated by El Segundo Power LLC (NRG subsidiary) (1998). The ESGS has been in operation since 1955 and utilizes two intake structures (individual structures for Units 1 and 2 and for Units 3 and 4) as part of the facility's once through cooling system. The intake structures consist of two pipes that extend offshore into Santa Monica Bay. Approximately 420,000 gpm are drawn through the intake system. A total of one dead green and two live loggerhead sea turtles were entrained in the facility from 1982–2006.

The ESGS conservation plan outlines the monitoring and reporting procedures required by NMFS in the event of a sea turtle take. The Southwest Region (SWR) Stranding Coordinator is immediately contacted after the discovery of a live or dead sea turtle. Completion and submission of a report, including photographs and biological information, is due to NMFS within 30 days of the incident. Training on handling and tagging procedures for sea turtles is provided to ESGS personnel. ESGS could not identify any practicable alternatives that would mitigate the existing condition related to its impact on sea turtles.

Encina Power Station (EPS)

EPS is a 965–MW facility located in western San Diego County, situated in the City of Carlsbad along the east coast of the Pacific Ocean. The power plant is bounded on the west by the Pacific Ocean, on the north by Agua Hedionda Lagoon, and on the south by the City of Carlsbad. EPS is owned by NRG (2006) and operated by Cabrillo Power I, LLC. EPS began operation in 1954. The intake structure, serving all five steam powered units, is located at the south end of Agua Hedionda Lagoon. The maximum flow design of the CWS is 595,340 gpm. A total of one dead and two live green sea turtles were entrained from 1982–2006.

The EPS conservation plan outlines the monitoring and reporting procedures required by NMFS in the event of a sea turtle take. The Southwest Region (SWR) Stranding Coordinator is immediately contacted after the discovery of a live or dead sea turtle. Completion and submission of a report, including photographs and biological information, is due to NMFS within 30 days of the incident. Training on handling and tagging procedures for sea turtles is provided to EPS personnel. Metal rails are in place at the forebay entrance which prevents animals from entering further into the CWS system. EPS could not identify any additional practicable alternatives that would mitigate the existing condition related to its impact on sea turtles.

Reliant Energy Ormond Beach Generating Station (OBGS)

Reliant Energy Ormond Beach Generating Station (OBGS) is a two-unit, 1,500- MW gas-fueled, steam-electric generating facility located near the California coast town of Oxnard, southeast of the entrance to Port Hueneme. The plant is approximately 48 km south of Santa Barbara, and 97 km north of Los Angeles. The plant is owned by Reliant Energy and is currently being operated by Southern California Edison Company personnel. Ocean water for cooling purposes is supplied via a single cooling water system. The facility consists of two gas-fueled steam-electric units fed with cooling water via the CWS. Four circulating water pumps operate with a total capacity of 476,000 gpm. One live green sea turtle was entrained at the facility from 1982–2006.

The OGBS conservation plan anticipates the rare entrainment of sea turtles. Daily monitoring of the CWS is conducted to detect and report the presence of sea turtles. OGBS consultants have developed procedures to rescue live animals using cargo nets and return healthy turtles back to the ocean immediately. Injured turtles are released to a NMFS authorized animal rehabilitation facility. Full reports of all sea turtles found at the station are delivered to NMFS within one month of the incident. Training in sea turtle identification, rescue, tagging, and biological sampling are provided to Operations personnel. OGBS explored numerous options for reducing the impact on sea turtles but no physical measures are available that could effectively limit the entrainment of sea turtles. OGBS has proposed financial mitigation by offering $1,000 to a fund approved by NMFS for the preservation of sea turtles forthe take of any sea turtle, attributable to the operation of the facility.

Dated: April 7, 2008.

David Cottingham,

Chief, Marine Mammal and Turtle Division, National Marine Fisheries Service.

[FR Doc. E8–7788 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Commerce Spectrum Management Advisory Committee Meeting

AGENCY: National Telecommunications and Information Administration (NTIA), Department of Commerce (DOC)

ACTION: Notice of Open Meeting

SUMMARY: This notice announces a public meeting of the Spectrum Management Advisory Committee (Committee). The Committee provides advice to the Assistant Secretary for Communications and Information on spectrum management matters.

DATES: The meeting will be held on April 30, 2008, from 1:30 p.m. to 3:30 p.m. Eastern Daylight Time.

ADDRESSES: The meeting will be held at the U.S. Department of Commerce Herbert C. Hoover Building, 1401 Constitution Avenue N.W., Room 1412, Washington, DC. Public comments may be mailed to Commerce Spectrum Management Advisory Committee, National Telecommunications and Information Administration, 1401 Constitution Avenue N.W., Room 4725, Washington, DC 20230 or emailed to spectrumadvisory@ntia.doc.gov.

FOR FURTHER INFORMATION CONTACT: Eric Stark, Designated Federal Officer, at (202) 482–1880 or estark@ntia.doc.gov; Joe Gattuso at (202) 482–0977 or jgattuso@ntia.doc.gov; and/or visit NTIA's web site at www.ntia.doc.gov.

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Commerce established the Committee to implement a recommendation of the President's Initiative on Spectrum Management pursuant to the President's November 29, 2004 Memorandum for the Heads of Executive Departments and Agencies on the subject of ''Spectrum Management for the 21st Century.'' [1] This Committee is subject to the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, and is consistent with the National Telecommunications and Information Administration Act, 47 U.S.C. § 904(b). The Committee provides advice to the Assistant Secretary of Commerce for Communications and Information on needed reforms to domestic spectrum policies and management to enable the introduction of new spectrum-dependent technologies and services, including

[1] *President's Memorandum on Improving Spectrum Management for the 21st Century*, 49 Weekly Comp. Pres. Doc. 2875 (Nov. 29, 2004) (Executive Memorandum).

long-range spectrum planning and policy reforms for expediting the American public's access to broadband services, public safety, and digital television. The Committee functions solely as an advisory body in compliance with the FACA.

Matters to Be Considered: The Committee will receive recommendations and reports from working groups of its Technical Sharing Efficiencies subcommittee and Operational Sharing Efficiencies subcommittees. It will consider matters to be taken up at its next meeting. It will also provide an opportunity for public comment on these matters.

Time and Date: The meeting will be held on April 30, 2008, from 1:30 p.m. to 3:30 p.m. Eastern Daylight Time. These times and the agenda topics are subject to change. Please refer to NTIA's web site, http://www.ntia.doc.gov, for the most up-to-date meeting agenda.

Place: U.S. Department of Commerce Herbert C. Hoover Building, 1401 Constitution Avenue N.W., Room 1412, Washington, DC 20230. The meeting will be open to the public and press on a first-come, first-served basis. Space is limited. When arriving for the meeting, attendees must present photo or passport identification and/or a U.S. Government building pass, if applicable, and should arrive at least one-half hour prior to the start time of the meeting. The public meeting is physically accessible to people with disabilities. Individuals requiring special services, such as sign language interpretation or other ancillary aids, are asked to notify Mr. Gattuso, at (202) 482–0977 or jgattuso@ntia.doc.gov, at least five (5) business days before the meeting.

Status: Interested parties are invited to attend and to submit written comments. Interested parties may file written comments with the Committee at any time before or after a meeting. If interested parties wish to submit written comments for consideration by the Committee in advance of this meeting, comments should be sent to the above-listed address and must be received by close of business on April 23, 2008, to provide sufficient time for review. Comments received after April 23, 2008, will be distributed to the Committee but may not be reviewed prior to the meeting. It would be helpful if paper submissions also include a three and one-half inch computer diskette in HTML, ASCII, Word or WordPerfect format (please specify version). Diskettes should be labeled with the name and organizational affiliation of the filer, and the name of the word processing program used to create the document. Alternatively, comments may be submitted electronically to spectrumadvisory@ntia.doc.gov. Comments provided via electronic mail may also be submitted in one or more of the formats specified above.

Records: NTIA is keeping records of all Committee proceedings. Committee records are available for public inspection at NTIA's office at the address above. Documents including the Committee's charter, membership list, agendas, minutes, and any reports are or will be available on NTIA's Committee web site at http://www.ntia.doc.gov/advisory/spectrum.

Dated: April 8, 2008.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. E8–7809 Filed 4–10–08; 8:45 am]

BILLING CODE 3510–60–S

DEPARTMENT OF ENERGY

Extension of Comment Period for the Draft Complex Transformation Supplemental Programmatic Environmental Impact Statement

AGENCY: National Nuclear Security Administration, Department of Energy.

ACTION: Extension of Comment Period for the Draft Complex Transformation Supplemental Programmatic Environmental Impact Statement.

SUMMARY: On January 11, 2008, NNSA published a Notice of Availability and Public Hearings for the Draft Complex Transformation Supplemental Programmatic Environmental Impact Statement (Draft Complex Transformation SPEIS, DOE/EIS–0236–S4; 73 FR 2023). That notice invited public comment on the Draft Complex Transformation SPEIS through April 10, 2008. NNSA has extended the public comment period through April 30, 2008.

DATES: NNSA invites comments on the Draft Complex Transformation SPEIS through April 30, 2008. NNSA will consider comments received after this date to the extent practicable as it prepares the Final Complex Transformation SPEIS.

ADDRESSES: Written comments on the Draft Complex Transformation SPEIS, as well as requests for additional information and requests for copies of the Draft Complex Transformation SPEIS, should be directed to Mr. Theodore A. Wyka, Complex Transformation Supplemental PEIS Document Manager, Office of Transformation (NA–10.1), National Nuclear Security Administration, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Comments also may be submitted by facsimile to 1–703–931–9222, or by e-mail to *complex transformation@nnsa.doe.gov.* Please mark correspondence ''Draft Complex Transformation SPEIS Comments.''

SUPPLEMENTARY INFORMATION: On January 11, 2008, NNSA published a Notice of Availability and Public Hearings for the Draft Complex Transformation Supplemental Programmatic Environmental Impact Statement (Draft Complex Transformation SPEIS, DOE/EIS–0236–S4; 73 FR 2023). That notice invited public comment on the Draft Complex Transformation SPEIS through April 10, 2008. In response to public requests, NNSA has extended the public comment period through April 30, 2008. NNSA will consider comments received after this date to the extent practicable as it prepares the Final Complex Transformation SPEIS.

The Draft Complex Transformation SPEIS and additional information regarding complex transformation are available on the Internet at *http://www.ComplexTransformationSPEIS.com* and *http://www.nnsa.doe.gov.*

Issued in Washington, DC, on April 9, 2008.

Thomas P. D'Agostino,

Administrator, National Nuclear Security Administration.

[FR Doc. E8–7869 Filed 4–10–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–129–005]

Southern California Water Company; Notice of Compliance Filing

April 4, 2008.

Take notice that on March 24, 2008, formerly named Southern California Water Company tendered for filing in compliance with Commission's Order on Remand, issued February 21, 2008, to recalculate the cost-based rate ceiling applicable to the sale and compare it to the amount of the sale revenues.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 14, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–7771 Filed 4–10–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ08–7–000]

Bonneville Power Administration; Notice of Filing

April 4, 2008.

Take notice that on March 31, 2008, Bonneville Power Administration filed a petition of declaratory order granting reciprocity approval for certain terms and conditions of Open Access Transmission Service, for a waiver of certain existing tariff provisions, and for exemption from filing fee.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 30, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–7769 Filed 4–10–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA07–26–001; OA08–64–000]

Public Service Company of New Mexico; Notice of Filing

April 4, 2008.

Take notice that on March 14, 2008, Public Service Company of New Mexico, pursuant to Commission's Order No. 890–A, submitted revised tariff sheets to its Second Revised Volume No. 6 OATT.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 14, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–7770 Filed 4–10–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–666–000]

NRG Southaven, LLC; Notice of Issuance of Order

April 4, 2008.

NRG Southaven LLC (NRG Southaven) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed market-based rate tariff provides for the sale of energy, capacity and ancillary services at market-based rates. NRG Southaven also requested waivers of various Commission regulations. In particular, NRG Southaven requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by the NRG Southaven.

On April 4, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development-West, granted the request

for blanket approval under Part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by NRG Southaven, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2007). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov.*

Notice is hereby given that the deadline for filing protests is May 5, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, NRG Southaven is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the NRG Southaven, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of NRG Southaven's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–7768 Filed 4–10–08; 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

April 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.

Docket No.	Date received	Presenter or requester
Prohibited:		
1. CP06–54–000, CP08–55–000, CP08–56–000	3–18–08	Robert Fromer.
2. CP07–208–000	3–24–08	Scott Parker.
3. Project No. 2984–000	3–27–08	Roger Wheeler.
Exempt:		
1. CP98–150–006, *et al.*	3–20–08	Michael A. Arcuri.
2. CP06–54–000	3–19–08	Hon. Rosa DeLauro.
3. CP07–208–000	3–20–08	Hon. Susan Bysiewicz.
4. CP07–208–000	3–28–08	Hon. Richard G. Lugar.
5. Project No. 906–006	4–01–08	Joseph Hassell.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–7767 Filed 4–10–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Cumberland System of Projects

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice of proposed rates, public forum, and opportunities for public review and comment.

SUMMARY: Southeastern Power Administration (Southeastern) proposes to revise existing schedules of rates and charges applicable to the sale of power from the Cumberland System of Projects effective for a 5-year period, October 1, 2008, through September 30, 2013. Additionally, opportunities will be available for interested persons to review the rates and supporting studies and to submit written comments. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before July 10, 2008. A public information and comment forum will be held at 10 a.m., May 22, 2008. Persons desiring to speak at the forum should notify Southeastern at least three (3) days before the forum is scheduled, so that a list of forum participants can be prepared. Others may speak if time permits.

ADDRESSES: The forum will be held at the Holiday Inn Express, 920 Broadway, Nashville, Tennessee 37203, phone (615) 244–0150. Written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, GA 30635–6711.

FOR FURTHER INFORMATION CONTACT: J. W. Smith, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635, (706) 213–3800.

SUPPLEMENTARY INFORMATION: The Deputy Secretary of Energy confirmed and approved on an interim basis on February 20, 2008, Wholesale Power Rate Schedules CBR–1–F, CSI–1–F, CEK–1–F, CM–1–F, CC–1–G, CK–1–F, and CTV–1–F applicable to Cumberland System of Projects power for a period ending September 30, 2008. Final approval by the Federal Energy Regulatory Commission (FERC) is pending.

Discussion: The marketing policy for the Cumberland System of Projects provides peaking capacity, along with 1500 hours of energy annually with each kilowatt of capacity, to customers outside the Tennessee Valley Authority (TVA) transmission system. Due to restrictions on the operation of the Wolf Creek Project imposed by the U.S. Army Corps of Engineers as a precaution to prevent failure of the dam, Southeastern is not able to provide peaking capacity to these customers. Southeastern implemented an interim operating plan for the Cumberland System to provide these customers with energy that did not include capacity. Because previous rate schedules recovered all costs from capacity and excess energy, Southeastern developed the interim rate schedules to recover costs under the interim operating plan. The interim rate schedules were approved by the Administrator under the Administrator's authority to develop and place into effect on a final basis rates for short-term sales of capacity, energy, or transmission service effective February 25, 2007. On February 20, 2008, the Deputy Secretary of Energy approved an extension of the interim rate schedules for a period from February 25, 2008 to September 30, 2008. The rate schedules have been forwarded to FERC with a request for approval on a final basis. An updated study, dated February 2008, shows that existing rates are adequate to recover all costs required by present repayment criteria.

Southeastern is proposing to include $19.7 million of replacements per year from FY 2008 to FY 2028, for a total of $394 million. Including this $394 million, the existing rates are not adequate to recover all costs. A revised repayment study with a revenue increase of $6,036,000 over the current study demonstrates that rates would be adequate to meet repayment criteria. The total revenue requirement is $52,350,000. The additional revenue requirement amounts to a 13 percent increase in revenues.

Southeastern is including three rate alternatives per rate schedule. All of the rate alternatives have a revenue requirement of $52,350,000, which includes the $6,036,000 increase in revenue.

The first set includes the rates necessary to recover costs under the interim operating plan. These rates are based on energy. The rate is 13.29 mills per kilowatt-hour for all Cumberland energy. The customers will pay a ratable share of the transmission credit the Administrator of Southeastern Power Administration (Administrator) provides the Tennessee Valley Authority (TVA) as consideration for delivering capacity and energy for the account of the Administrator to points of delivery of Other Customers or interconnection points of delivery with other electric systems for the benefit of Other Customers, as agreed by contract between the Administrator and TVA. This rate will remain in effect as long as Southeastern is unable to provide capacity due to the Corps' imposed restrictions on the operation of the Wolf Creek Project.

The second rate alternative will recover cost from capacity and energy. This will be in effect once the Corps raises the lake level at the Wolf Creek Project. When the lake level rises and capacity is available, the capacity will be allocated to the customers.

The third rate alternative is based on the original Cumberland Marketing Policy. All costs are recovered from capacity and excess energy. The rates under this alternative are as follows:

CUMBERLAND SYSTEM RATES

TVA:	
Capacity	$1.996 per kw/month.
Additional Energy	11.048 mills per kwh.
Outside Preference Customers (Excluding Customers served through Carolina Power & Light Company):	
Capacity	$3.462 per kw/month.
Energy	11.048 mills per kwh.
Customers Served through Carolina Power & Light Company, Western Division:	
Capacity	$3.940 per kw/month.
Transmission	$1.1522 per kw/month.

These rates will go into effect once the Corps lifts the restrictions on the operation of the Wolf Creek Dam and the interim operating plan becomes unnecessary.

The referenced repayment studies are available for examination at 1166 Athens Tech Road, Elberton, Georgia 30635–6711. The Proposed Rate Schedules CBR–1–G, CSI–1–G, CEK–1–G, CM–1–G, CC–1–H, CK–1–G, and CTV–1–G are also available.

Dated: March 31, 2008.

Leon Jourolmon,

Acting Administrator.

[FR Doc. E8–7761 Filed 4–10–08; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6697–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2) (c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167.

Summary of Rating Definitions; Environmental Impact of the Action

LO—Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC—Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO—Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU—Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1—Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2—Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3—Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

Draft EISs

EIS No. 20070488, ERP No. D–DOE–A09800–00, Programmatic—Designation of Energy Corridors in 11 Western States, Preferred Location of Future Oil, Gas, and Hydrogen Pipelines and Electricity Transmission and Distribution Facilities on Federal Land, AZ, CA, CO, ID, MT, NV, NM, UT, WA and WY.

Summary: EPA expressed environmental concerns about potential underestimation of wetlands in the designated corridors.

Rating EC2.

EIS No. 20080042, ERP No. D–AFS–J65508–MT, Debaugan Fuels Reduction Project, Proposed Fuels Reduction Activities, Lolo National Forest, Superior Ranger District, Mineral County, MT.

Summary: EPA expressed environmental concerns about water quality impacts. EPA requested additional analysis and information to assess and mitigate impacts of the management actions.

Rating EC2.

EIS No. 20080047, ERP No. D–USN–A11080–00, Atlantic Fleet Active Sonar Training Program, To Provide Mid- and High-Frequency Active Sonar Technology and the Improved Extended Echo Ranging (IEER) System during Atlantic Fleet Training Exercises, Along the East Coast of United States (US) and in the Gulf of Mexico.

Summary: EPA does not object to the proposed action.

Rating LO.

EIS No. 20080054, ERP No. D–DOE–J05080–MT, MATL 230–kV Transmission Line Project, To Construct, Operate, Maintain, and Connect a 230-kV Electric Transmission Line, Issuance of Presidential Permit for Right-to-Way Grant, Cascade, Teton, Chouteau, Pondera, Toole and Glacier Counties, MT.

Summary: EPA expressed environmental concerns about water quality and wetland impacts. EPA recommended a modified preferred alternative that would better optimize the environmental, social and economic trade-offs for this project. EPA requested additional information regarding mitigation of impacts.

Rating EC2.

Final EISs

EIS No. 20070457, ERP No. F–UAF–B15000–MA, Final

Recommendations and Associated Actions for the 104th Fighter Wing Massachusetts Air National Guard, Base Realignment and Closure, Implementation, Westfield-Barnes Airport, Westfield, MA.

Summary: EPA had no objection to the project and encouraged the National Guard Bureau to work closely with local communities.

EIS No. 20080062, ERP No. F–USA–A11079–00, Permanent Home Stationing of the 2/25th Stryker Brigade Combat Team (SBECT), To Address a Full Range of Alternatives for Permanently Stationing the 2/25th SBCT, Hawaii and Honolulu Counties, HI; Anchorage and Southeast Fairbanks Boroughs, AK; El Paso, Pueblo, and Fremont Counties, CO.

Summary: EPA's previous concerns have been resolved; therefore, EPA does not object to the proposed project.

EIS No. 20080073, ERP No. F–FHW–F40812–IL, Prairie Parkway Study, Transportation System Improvement between I–80 and I–88, Widening IL–47 to 4 Lanes from I–80 to Caton Farm Road, Funding, U.S. Army COE section 404, Grundy, Kendall and Kane Counties, IL.

Summary: EPA continues to have environmental concerns about water quality and aquatic life impacts due to road salt and other pollutants.

Dated: April 8, 2008.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E8–7784 Filed 4–10–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6697–7]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 03/31/2008 Through 04/04/2008 Pursuant to 40 CFR 1506.9.

EIS No. 20080125, Draft EIS, FHW, NC, I–26 Connector Project, Proposed Multi-Land Freeway from I–40 to US 19–23–70 North of Asheville, Funding, U.S. Coast Guard Permit, US Army COE Section 10 and 404 Permit, Buncombe County, Asheville, NC, *Comment Period Ends:* 05/19/2008, *Contact:* John F. Sullivan, III, P.E. 919–856–4346 Ext. 122

EIS No. 20080126, Draft EIS, AFS, ID, Corralled Bear Project, Management of Vegetation, Hazardous Fuels, and Access, Plus Watershed Improvements, Palouse Ranger District, Clearwater National Forest, Latah County, ID, *Comment Period Ends:* 05/19/2008, *Contact:* Kara Chadwick 208–875–1131.

EIS No. 20080127, Final Supplement, FHW, MT, US 93 Highway Ninepipe/Ronan Improvement Project, from Dublin Gulch Road/Red Horn Road, Funding, Special-Use-Permit, NPDES Permit and U.S. Army COE Section 404 Permit, Lake County, MT, *Wait Period Ends:* 05/05/2008, *Contact:* Craig Genzlinger, P.E. 406–449–5302.

EIS No. 20080128, Draft Supplement, MMS, 00, Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sales: 2009–2012 *Western Planning Area Sales:* 210 in 2009, 215 in 2010, and 218 in 2011, and *Central Planning Area Sales:* 208 in 2009, 213 in 2010, 216 in 2011, and 222 in 2012, TX, LA, MS, AL and FL, *Comment Period Ends:* 06/03/2008, *Contact:* Dr. Mary Boatman 703–737–1662.

EIS No. 20080129, Draft EIS, FHW, UT, Layton Interchange Project, Improvements on I–15 (Exit–330) to Provide Unrestricted Access Across the Unicon Pacific Railroad and to Address Traffic Congestion on Gentile St. in West Layton, Layton City, UT, *Comment Period Ends:* 05/27/2008, *Contact:* Doug Atkin 801–963–0182.

EIS No. 20080130, Final EIS, AFS, 00, Mt. Ashland Late-Successional Reserve Habitat Restoration and Fuels Reduction Project, To Promote and Maintain Late-Successional Habitat, Oak Knoll Ranger District, Klamath National Forest, Siskiyou County, CA and Jackson County, OR, *Wait Period Ends:* 05/05/2008, *Contact:* Susan Stresser 530–841–4538.

EIS No. 20080131, Final EIS, AFS, CA, Eldorado National Forest Public Wheeled Motorized Travel Management Project, Proposes to Regulate Unmanaged Public Wheeled Motor Vehicle, Implementation, Alphine, Amador, El Dorado and Placer Counties, CA, *Wait Period Ends:* 05/05/2008, *Contact:* Laura Hierholzer 530–647–5382.

EIS No. 20080132, Final EIS, USN, VA, Marine Corps Base Quantico (MCBQ) Virginia Project, Proposes Development of the Westside of MCBQ and the 2005 Base Realignment and Closure Action at MCBQ, Implementation, Quantico, VA, *Wait Period Ends:* 05/05/2008, *Contact:* Jeff Gardner 703–432–6784.

Amended Notices

EIS No. 20080111, Draft EIS, COE, 00, Programmatic—Hydropower Rehabilitations, Dissolved Oxygen and Minimum Flow Regimes at Wolf Creek Dam, Kentucky and Center Hill and Dale Hollow Dams, Tennessee, Implementation, *Comment Period Ends:* 05/12/2008, *Contact:* Chip Hall 615–736–7666.

Revision to FR Notice Published 03/28/2008: EIS is withdrawn due to Non-Distribution of the document.

Dated: April 8, 2008.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E8–7787 Filed 4–10–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2008–0268; FRL–8553–3]

Board of Scientific Counselors, Executive Committee Meeting—May 2008

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of one meeting of the Board of Scientific Counselors (BOSC) Executive Committee.

DATES: The meeting will be held on Tuesday, May 6, 2008, from 8 a.m. to 4:30 p.m., and will continue on Wednesday, May 7, 2008, from 8:30 a.m. until 3:30 p.m. All times noted are central time. The meeting may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the meeting will be accepted up to 1 business day before the meeting.

ADDRESSES: The meeting will be held at the Office of Research and Development, National Health and Environmental Effects Research Laboratory, Gulf Ecology Division, 1 Sabine Island Drive, Gulf Breeze, Florida 32561. Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2008–0268, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Send comments by electronic mail (e-mail) to:

ORD.Docket@epa.gov, Attention Docket ID No. EPA–HQ–ORD–2008–0268.

• *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2008–0268.

• *Mail:* Send comments by mail to: Board of Scientific Counselors, Executive Committee Meeting—May 2008 Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–ORD–2008–0268.

• *Hand Delivery or Courier.* Deliver comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2008–0268. Note: this is not a mailing address. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2008–0268. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Board of Scientific Counselors, Executive Committee Meeting—May 2008 Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Lorelei Kowalski, Mail Code 8104-R, Office of Science Policy, Office of Research and Development, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via phone/voice mail at: (202) 564–3408; via fax at: (202) 565–2911; or via e-mail at: *kowalski.lorelei@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information

Any member of the public interested in receiving a draft BOSC agenda or making a presentation at the meeting may contact Lorelei Kowalski, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above. In general, each individual making an oral presentation will be limited to a total of three minutes.

Proposed agenda items for the meeting include, but are not limited to: review of the Computational Toxicology Subcommittee and National Exposure Research Laboratory (NERL) Standing Subcommittee draft letter reports; review of the Global Change Mid-Cycle draft report; update on the BOSC mid-cycle review subcommittees (land and water quality); update on the BOSC program review subcommittees (homeland security, human health, and endocrine disrupting chemicals (EDCs)); update on the BOSC standing subcommittees (National Center for Environmental Research); briefings on (1) The National Research Council of the National Academies: Report on Evaluating Research Efficiency in the U.S. EPA (report overview, ORD implementation plans, and implications for BOSC program reviews), (2) ORD's ecological research program, and (3) ORD/EPA nanotechnology activities; a site visit to the National Health and Environmental Effects Research Laboratory in Gulf Breeze, Florida; update on BOSC workgroups; ORD update; an update on EPA's Science Advisory Board activities; and future issues and plans. The meeting is open to the public.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Lorelei Kowalski (202) 564–3408 or *kowalski.lorelei@epa.gov.* To request accommodation of a disability, please contact Lorelei Kowalski, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated April 3, 2008.

Jeff Morris,

Acting Director, Office of Science Policy.

[FR Doc. E8–7812 Filed 4–10–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8553–2]

Science Advisory Board Staff Office; Clean Air Scientific Advisory Committee (CASAC); Notification of a Public Advisory Committee Meeting of the CASAC Oxides of Nitrogen Primary NAAQS Review Panel and Public Teleconference of the CASAC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the Clean Air Scientific Advisory Committee's (CASAC) Oxides of Nitrogen Primary NAAQS Review Panel (Panel) to conduct a peer review of EPA's *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria (Second External Review Draft)* (EPA/600/R–07/093aB and EPA/600/R–07/903bB, March 2008) and to conduct a review of the EPA's *Risk and Exposure Assessment to Support the Review of the NO_2 Primary National Ambient Air Quality Standard: First Draft and Risk and Exposure Assessment to Support the Review of the NO_2 Primary National Ambient Air Quality Standard: Draft Technical Support Document (TSD).* The chartered CASAC will review and approve the Panel's report by teleconference.

DATES: The meeting will be held from 8:30 a.m. (Eastern Time) on Thursday, May 1, 2008 through 2 p.m. (Eastern Time) on Friday, May 2, 2008. The chartered CASAC will meet by public teleconference from 3 p.m. to 5 p.m. on June 11, 2008 (Eastern Time).

Location: The May 1–2, 2008 meeting will take place at the Marriott at Research Triangle Park, 4700 Guardian Drive, Durham, NC 27703, telephone: (919) 941–6200.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to submit a written or brief oral statement (5 minutes or less) or wants further information concerning this meeting must contact Dr. Angela Nugent, 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) 343–9981; fax: (202) 233–0643; or e-mail at: *nugent.angela@epa.gov.* For information on the CASAC teleconference on June 11, 2008, please contact Mr. Fred Butterfield, Designated Federal Officer (DFO), at the above listed address, via telephone/voice mail: (202) 343–9994 or e-mail at: *butterfield.fred@epa.gov.* General information concerning the CASAC and the CASAC documents cited below can be found on the EPA Web site at: *http://www.epa.gov/casac.*

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 oxides of nitrogen (NO_X). EPA is in the process of reviewing the primary NAAQS for nitrogen dioxide (NO_2) as an indicator for NO_X. Primary standards set limits to protect public health, including the health of ''sensitive'' populations such as asthmatics, children, and the elderly.

EPA previously released an integrated plan for all aspects of this review of the primary NO_2 standard, *Integrated Review Plan for the Primary National Ambient Air Quality Standard for Nitrogen Dioxide* (August 2007), which reflected advice provided by CASAC through a consultation, which resulted in the CASAC letter, *Scientific Advisory Committee's (CASAC) Consultation on the Draft Integrated Plans for Review of the Primary NAAQS for NO_2 and SO_2* EPA–CASAC–07–005. The CASAC also previously peer reviewed EPA's *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria (First External Review Draft)* (EPA/600/R–07/093, August 2007) and issued a peer review report, *Clean Air Scientific Advisory Committee's (CASAC) Peer Review of EPA's Integrated Science Assessment (ISA) for Oxides of Nitrogen—Health Criteria (First External Review Draft, August 2007)*, EPA–CASAC–08–002. The CASAC also provided consultative advice on the EPA's *Nitrogen Dioxide Health Assessment Plan: Scope and Methods for Exposure and Risk Assessment* and issued a consultation letter, *Clean Air Scientific Advisory Committee's (CASAC) Consultation on EPA's Nitrogen Dioxide Health Assessment Plan: Scope and Methods for Exposure and Risk Assessment (September 2007 Draft),* EPA–CASAC–08–001.

As the next step in that review process, EPA's Office of Research and Development (ORD) has completed a draft document, *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria (Second External Review Draft)* (EPA/600/R–07/093aB and EPA/600/R–07/903bB, March 2008) and has requested that CASAC review the document. EPA's Office of Air and Radiation (OAR) has also completed two draft documents entitled *(1) Risk and Exposure Assessment to Support the Review of the NO_2 Primary National Ambient Air Quality Standard: First Draft and (2) Risk and Exposure Assessment to Support the Review of the NO_2 Primary National Ambient Air Quality Standard: Draft Technical Support Document (TSD).* OAR has requested that CASAC review this assessment of human exposure and health risk for nitrogen dioxide (NO_2). After the panel has drafted its reports, the chartered CASAC will meet by conference call to review and approve the drafts.

Technical Contact: Any questions concerning EPA's *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria (Second External Review Draft)* (EPA/600/R–07/093aB and EPA/600/R–07/903bB, March 2008) should be directed to Dr. Dennis Kotchmar, ORD (by telephone: (919) 541–4158, or e-mail: *Kotchmar.dennis@epa.gov*). Any questions concerning EPA's *Risk and Exposure Assessment To Support the Review of the NO_2 Primary National Ambient Air Quality Standard: First Draft and Risk and Exposure Assessment To Support the Review of the NO_2 Primary National Ambient Air Quality Standard: Draft Technical Support Document (TSD)* should be directed to Dr. Scott Jenkins, OAR (by telephone: (919) 541–1167, or e-mail: *jenkins.scott@epa.gov*).

Availability of Meeting Materials: EPA–ORD's *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria (Second External Review Draft)* can be accessed on EPA's National Center for Environmental Assessment Web site at: *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=189147.* EPA–OAR's *Risk and Exposure Assessment To Support the Review of the NO_2 Primary National Ambient Air Quality Standard: First Draft and Risk and Exposure Assessment To Support the Review of the NO_2 Primary National Ambient Air Quality Standard: Technical Support Document (TSD)* will be accessible via the Agency's Office of Air Quality Planning and Standards Web site at: *http://www.epa.gov/ttn/naaqs/standards/nox/s_nox_cr_rea.html.* Agendas and materials in support of the meeting and teleconference will be placed on the SAB Web site at: *http://www.epa.gov/casac* in advance.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the CASAC Panel to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Dr. Angela Nugent, DFO, in writing (preferably via e-mail) by April 24, 2008 at the contact information noted above to be placed on the public speaker list for this meeting. To be placed on the public speaker list for the June 11, 2008 teleconference, interested parties should notify Mr. Fred Butterfield, DFO, by e-mail no later than June 6, 2008. Oral presentations will be limited to a total of 30 minutes for all speakers.

Written Statements: Written statements for the public meeting should be received by Dr. Angela Nugent at the contact information above by April 24, 2008, so that the information may be made available to

the Panel for their consideration prior to this meeting. Written statements for the teleconference should be received by Mr. Fred Butterfield, DFO, by June 6, 2008. Written statements should be supplied to the appropriate DFO by June 6, 2008. Written statements should be supplied to the appropriate DFO in the following formats: one hard copy with original signature (optional), and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, 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. Nugent 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: April 7, 2008.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E8–7811 Filed 4–10–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8553–2]

Science Advisory Board Staff Office; Clean Air Scientific Advisory Committee (CASAC); Notification of a Public Advisory Committee Meeting of the CASAC Oxides of Nitrogen Primary NAAQS Review Panel and Public Teleconference of the CASAC

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SUPPLEMENTARY INFORMATION:

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Technical Contact: Any questions concerning EPA's *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria (Second External Review*

Draft) (EPA/600/R–07/093aB and EPA/600/R–07/903bB, March 2008) should be directed to Dr. Dennis Kotchmar, ORD (by telephone: (919) 541-4158, or e-mail: *Kotchmar.dennis@epa.gov*). Any questions concerning EPA's *Risk and Exposure Assessment to Support the Review of the NO_2 Primary National Ambient Air Quality Standard: First Draft and Risk and Exposure Assessment to Support the Review of the NO_2 Primary National Ambient Air Quality Standard: Draft Technical Support Document (TSD)* should be directed to Dr. Scott Jenkins, OAR (by telephone: (919) 541–1167, or e-mail: *jenkins.scott@epa.gov*).

Availability of Meeting Materials: EPA–ORD's *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria (Second External Review Draft)* can be accessed on EPA's National Center for Environmental Assessment Web site at: *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=189147.* EPA–OAR's *Risk and Exposure Assessment to Support the Review of the NO_2 Primary National Ambient Air Quality Standard: First Draft and Risk and Exposure Assessment to Support the Review of the NO_2 Primary National Ambient Air Quality Standard: Technical Support Document (TSD)* will be accessible via the Agency's Office of Air Quality Planning and Standards Web site at: *http://www.epa.gov/ttn/naaqs/standards/nox/s_nox_cr_rea.html*. Agendas and materials in support of meeting and teleconference will be placed on the SAB Web site at: *http://www.epa.gov/casac* in advance.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the CASAC Panel to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Dr. Angela Nugent, DFO, in writing (preferably via e-mail) by April 24, 2008 at the contact information noted above to be placed on the public speaker list for this meeting. To be placed on the public speaker list for the June 11, 2008 teleconference, interested parties should notify Mr. Fred Butterfield, DFO by e-mail no later than June 6, 2008. Oral presentations will be limited to a total of 30 minutes for all speakers.

Written Statements: Written statements for the public meeting should be received by Dr. Angela Nugent at the contact information above by April 24, 2008, so that the information may be made available to the Panel for their consideration prior to this meeting. Written statements for the teleconference should be received by Mr. Fred Butterfield, DFO by June 6, 2008. Written statements should be supplied to the appropriate DFO by June 6, 2008. Written statements should be supplied to the appropriate DFO in the following formats: One hard copy with original signature (optional), and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, 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. Nugent 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: April 7, 2008.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E8–7811 Filed 4–10–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8552–8]

Proposed Settlement Agreement, Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement, to address a lawsuit filed by Coke Oven Environmental Task Force: *Coke Oven Environmental Task Force* v. *EPA,* Nos. 06–1131, 07–1321 (consolidated) (D.C. Cir.). On or about April 7, 2006, and August 13, 2007 respectively, Petitioner filed petitions for review challenging EPA's final rules entitled: (1) ''Standards of Performance for Electric Utility Steam Generating Units for Which Construction Is Commenced After September 18, 1978; Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units; and Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units,'' 71 FR 9866 (February 27, 2006), and (2) ''Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction Is Commenced After August 17, 1971; Standards of Performance for Electric Utility Steam Generating Units for Which Construction Is Commenced After September 18, 1978; Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units; and Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units,'' 72 FR 32710 (June 13, 2007), (collectively, the ''Steam Generating Unit NSPS''). Under the terms of the proposed settlement agreement, EPA shall sign a notice of proposed rulemaking or direct final rulemaking that contains amendments to the rules that are the same in substance as set forth in Attachment A to this settlement agreement by May 31, 2008, and take any necessary final action by November 30, 2008.

DATES: Written comments on the proposed settlement agreement must be received by *May 12, 2008.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC–2008–0266, online at *http://www.regulations.gov* (EPA's preferred method); by e-mail to *oei.docket@epa.gov;* mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Richard H. Vetter, c/o Cheryl Graham Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (919) 541–2127; fax number (919) 541–4991; e-mail address: *vetter.rick@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Settlement

Petitioner raised issues concerning the final rules entitled ''Standards of Performance for Electric Utility Steam Generating Units for Which Construction Is Commenced After September 18, 1978; Standards of Performance for Industrial-Commercial-

Institutional Steam Generating Units; and Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units,'' 71 FR 9866 (February 27, 2006), and ''Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction Is Commenced After August 17, 1971; Standards of Performance for Electric Utility Steam Generating Units for Which Construction Is Commenced After September 18, 1978; Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units; and Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units,'' 72 FR 32710 (June 13, 2007).

The settlement agreement provides that by May 31, 2008, EPA shall sign a notice of proposed rulemaking or direct final rulemaking that contains amendments to the rules that are the same in substance as set forth in Attachment A to this settlement agreement and by November 30, 2008, EPA shall take any necessary final action on the rules. If EPA signs a final rule that contains amendments to the rules that are substantially the same in substance as set for in Attachment A, then publishes that final rule in the **Federal Register**, Petitioner and EPA shall file for dismissal of the consolidated Petitions for Review with prejudice in accordance with Rule 42(b) of the Federal Rules of Appellate Procedures.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional Information About Commenting on the Proposed Settlement Agreement

A. How Can I Get a Copy of the Settlement Agreement?

Direct your comments to the official public docket for this action under Docket ID No. EPA–HQ–OGC–2008–0226 which contains a copy of the settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *http://www.regulations.gov.* You may use the *http://www.regulations.gov* to view the settlement agreement, submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *http://www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *http://www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through *http://www.regulations.gov,* your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: April 4, 2008.

Richard B. Ossias,

Associate General Counsel.

[FR Doc. E8–7814 Filed 4–10–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–New England Region I—EPA–R01–OW–2008–0212; FRL–8553–4]

Massachusetts Marine Sanitation Device Standard—Receipt of Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice—Receipt of Petition.

SUMMARY: Notice is hereby given that a petition has been received from the State of Massachusetts requesting a determination by the Regional Administrator, U. S. Environmental Protection Agency, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Scituate, Marshfield,

Cohasset, and the tidal portions of the North and South Rivers.

DATES: Comments must be received on or before May 12, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OW–2008–0212 by one of the following methods:

- *http://www.regulations.gov,* Follow the on-line instructions for submitting comments.
- *E-mail: rodney.ann@epa.gov.*
- *Fax:* (617) 918–0538.
- *Mail and hand delivery:* U.S. Environmental Protection Agency—New England Region, One Congress Street, Suite 1100, COP, Boston, MA 02114–2023. Deliveries are only accepted during the Regional Office's normal hours of operation (8 a.m.–5 p.m., Monday through Friday, excluding legal holidays), and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R01–OW–2008–0212. 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.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copy-righted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency—New England Region, One Congress Street, Suite 1100, COP, Boston, MA 02114–2023. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office is open from 8 a.m.–5 p.m., Monday through Friday, excluding legal holidays. The telephone number is (617) 918–1538.

FOR FURTHER INFORMATION CONTACT: Ann Rodney, U.S. Environmental Protection Agency—New England Region, One Congress Street, Suite 1100, COP, Boston, MA 02114–2023. Telephone: (617) 918–1538, Fax number: (617) 918–0538; e-mail address: *rodney.ann@epa.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that a petition has been received from the State of Massachusetts requesting a determination by the Regional Administrator, U.S. Environmental Protection Agency, pursuant to section 312(f)(3) of Public Law 92–500 as amended by Public Law 95–217 and Public Law 100–4, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available coastlines and coastal tidal rivers within the following boundaries:

Waterbody/general area	Latitude	Longitude
Northern extent of Green Harbor at the RT 139 causeway	42°05′11″N	70°39′03″W
South and west along the South River to the Willow Street Bridge	42°05′34″N	70°42′43″W
South and west along the North River to Columbia Road Bridge	42°06′26″N	70°48′31″W
South along the navigable extent of the Gulf River	42°13′30″N	70°47′06″W

The proposed NDA boundary will also include coastal waters within municipal boundaries, westward of a delineation that extends from:

Waterbody/general area	Latitude	Longitude
Marshfield municipal boundary	42°04′22″N	70°38′54″W
East to navigational marker R ''2GH'' located off Howland Ledge	42°04′36″N	70°36′48″W
North to navigational marker G ''21'' F1 G 4 S. Whistle located east of Minot Light	42°16′33″N	70°42′20″W
Northwest on a heading to Thieves Ledge G ''1'' QG Whistle.	42°19′33″N	70°49′50″W
To Cohasset municipal boundary	42°18′34″N	70°47′25″W
Southwest to Cohasset municipal boundary	42°15′53″N	70°49′34″W

The proposed area includes the municipal waters of Scituate, Marshfield, Cohasset, and the tidal portions of the North and South Rivers.

Massachusetts has certified that there are ten pumpout facilities within the proposed area available to the boating public and two additional facilities pending. A list of the facilities, phone numbers, locations, and hours of operation is at the end of this petition.

Massachusetts has provided documentation indicating that the total vessel population is estimated to be 3,000 in the proposed area. It is estimated that 1,363 of the total vessel population may have a Marine Sanitation Device (MSD) of some type. The majority of facilities are connected directly into the local wastewater treatment system.

In 1977, the Department of the Interior designated the North and South Rivers as National Natural Landmarks, and in 1978 the North River received a Protective Order under the state Scenic Rivers Act of 1971. The Wompatuck

State Park, the English State Salt Marsh Wildlife Refuge/Management Area, and the Weir River Area of Critical Environmental Concern (ACEC) are all located within the proposed boundaries of this petition. There are approximately eight marinas, five public boat ramps, and over a dozen beaches located within the proposed No Discharge Area.

Both recreational and commercial shell fishermen use the area. There are ten designated Shellfish Growing Areas representing over 49,500 acres of productive shellfish beds in the area supporting soft shell clams, blue mussels, razor clams, quahogs, bay scallops, oysters, and surf clams. The area supports a thriving commercial and recreational fishing fleet. The proposed area has a variety of rich natural habitats, and supports a wide diversity of species.

PUMPOUT FACILITIES WITHIN PROPOSED NO DISCHARGE AREA

Name	Location	Contact info.	Hours	Mean low water depth
Cohasset Harbormaster	Cohasset Harbor	(781) 383–0863, VHF 10,16.	15 May–1 Nov, 9 a.m.–9 p.m.	N/A Boat Service.
Cole Parkway Marina	Scituate Harbor	(781) 545–2130, VHF 9	15 May–15 Oct, 8 a.m.–4 p.m.	6 ft.
Harbor Mooring Service	North and South Rivers	(781) 544–3130, Cell (617) 281–4365, VHF 9.	15 April–1 Nov, Service provided on-call.	N/A, Boat Service.
James Landing Marina	Herring River, Scituate	(781) 545–3000	1 May–15 Oct, 8 a.m.–4:30 p.m.	6 ft.
Waterline Mooring	Scituate Harbor	(781) 545–4154, VHF 9, 16.	15 May–15 Oct, 8 a.m.–5 p.m., or by appointment.	N/A, Boat Service.
Green Harbor Town Pier ...	Green Harbor, Marshfield	(781) 834–5541, VHF 9,16	1 April–15 Nov, 24/7 Self-Serve, 15 May–30 Sept, Attendant Service, 8 a.m.–11:30 p.m.	4 ft.
Bridgewaye Marina	South River, Marshfield	(781) 837–9343, VHF 9, 11.	15 June–15 Oct, 9–5 p.m	6 ft.
Erickson's Marina	South River, Marshfield	(781) 837–2687	15 March–15 Nov, 8 a.m.–5 p.m.	4 ft.
White's Ferry Marina	South River, Marshfield	(781) 837–9343, VHF 9, 11.	15 June–15 Oct, 9–5 p.m	4 ft.
Mary's Boat Livery	North River, Marshfield	(781) 837–2322, VHF 9, 16.	15 May–1 Oct, 8 a.m.–4 p.m.	4 ft.
** Marshfield Yacht Club	South River, Marshfield	TBA	TBA	TBA.
** South River Boat Ramp	South River, Marshfield	TBA	TBA	TBA.

** = Pending facilities.

Dated: April 4, 2008.

Robert W. Varney,

Regional Administrator, EPA—New England Region I.

[FR Doc. E8–7793 Filed 4–10–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL HOUSING FINANCE BOARD

[No. 2008–N–02]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (Bank) members it has selected for the 2008–09 first quarter review cycle under the Finance Board's community support requirements regulation. This notice also prescribes the deadline by which Bank members selected for review must submit Community Support Statements to the Finance Board.

DATES: Bank members selected for the review cycle under the Finance Board's community support requirements regulation must submit completed Community Support Statements to the Finance Board on or before May 30, 2008.

ADDRESSES: Bank members selected for the 2008–09 first quarter review cycle under the Finance Board's community support requirements regulation must submit completed Community Support Statements to the Finance Board either by regular mail at the Federal Housing Finance Board, Office of Supervision, Community Investment and Affordable Housing, 1625 Eye Street, NW., Washington, DC 20006, or by electronic mail at *fitzgeralde@fhfb.gov*.

FOR FURTHER INFORMATION CONTACT: Emma J. Fitzgerald, Program Analyst, Office of Supervision, Community Investment and Affordable Housing, by telephone at 202/408–2874, by electronic mail at *fitzgeralde@fhfb.gov,* or by regular mail at the Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service Bank members must meet in order to maintain access to long-term advances. *See* 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the Bank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 *et seq.*, and record of lending to first-time homebuyers. *See* 12 U.S.C. 1430(g)(2). Pursuant to section 10(g) of the Bank Act, the Finance Board has promulgated a community support requirements regulation that establishes standards a Bank member must meet in order to maintain access to long-term advances, and review criteria the Finance Board must apply in evaluating a member's community support performance. *See* 12 CFR part 944. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time

homebuyers. 12 CFR 944.3. Only members subject to the CRA must meet the CRA standard. 12 CFR 944.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. 12 CFR 944.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each Bank district for community support review each calendar quarter. 12 CFR 944.2(a). The Finance Board will not review an institution's community support performance until it has been a Bank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each Bank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the May 30, 2008 deadline prescribed in this notice. 12 CFR 944.2(b)(1)(ii) and (c). On or before April 25, 2008, each Bank will notify the members in its district that have been selected for the 2008–09 first quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. 12 CFR 944.2(b)(2)(i). The member's Bank will provide a blank Community Support Statement Form, which also is available on the Finance Board's Web site: *http://www.fhfb.gov*. Upon request, the member's Bank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 2008–09 first quarter community support review cycle:

Federal Home Loan Bank of Boston—District 1

Valley Bank	Bristol	Connecticut.
Litchfield Bancorp	Litchfield	Connecticut.
The Milford Bank	Milford	Connecticut.
Prime Bank	Orange	Connecticut.
National Iron Bank	Salisbury	Connecticut.
The First National Bank of Suffield	Suffield	Connecticut.
Savings Institute Bank & Trust Company	Willimantic	Connecticut.
Mechanics Savings Bank	Auburn	Maine.
Oxford Federal Credit Union	Mexico	Maine.
Adams Co-operative Bank	Adams	Massachusetts.
Beverly Cooperative Bank	Beverly	Massachusetts.
Wainwright Bank & Trust Company	Boston	Massachusetts.
Chelsea-Provident Co-operative Bank	Chelsea	Massachusetts.
East Boston Savings Bank	East Boston	Massachusetts.
East Bridgewater Savings Bank	East Bridgewater	Massachusetts.
Fall River Five Cents Savings Bank	Fall River	Massachusetts.
The First National Bank of Ipswich	Ipswich	Massachusetts.
Marlborough Co-Operative Bank	Marlborough	Massachusetts.
Century Bank & Trust Company	Medford	Massachusetts.
Needham Bank	Needham	Massachusetts.
Hoosac Bank	North Adams	Massachusetts.
North Brookfield Savings Bank	North Brookfield	Massachusetts.
Bank of Easton, A Co-operative Bank	North Easton	Massachusetts.
The Cape Cod Five Cents Savings Bank	Orleans	Massachusetts.
Rockland Trust Company	Rockland	Massachusetts.
UniBank For Savings	Whitinsville	Massachusetts.
Williamstown Savings Bank	Williamstown	Massachusetts.
St. Mary's Bank	Manchester	New Hampshire.
Community Guaranty Savings Bank	Plymouth	New Hampshire.
Coventry Credit Union	Coventry	Rhode Island.
Domestic Bank, FSB	Cranston	Rhode Island.
Union Federal Savings Bank	North Providence	Rhode Island.
Bank Rhode Island	Providence	Rhode Island.
Home Loan Investment Bank, FSB	Warwick	Rhode Island.

Federal Home Loan Bank of New York—District 2

Yardville National Bank	Hamilton Turnpike	New Jersey.
Morgan Stanley Trust	Jersey City	New Jersey.
The Provident Bank	Jersey City	New Jersey.
Atlantic Stewardship Bank	Midland Park	New Jersey.
City National Bank of New Jersey	Newark	New Jersey.
The Bank	Woodbury	New Jersey.
The Canandaigua National Bank and Trust Company	Canandaigua	New York.
Chemung Canal Trust Company	Elmira	New York.
National Bank of New York City	Flushing	New York.
New York Community Bank	Jericho	New York.
Rondout Savings Bank	Kingston	New York.
First Niagara	Lockport	New York.
State Bank of Long Island	New Hyde Park	New York.
Country Bank	New York	New York.
Eastbank, N.A	New York	New York.
PathFinder Bank	Oswego	New York.
Rhinebeck Savings Bank	Poughkeepsie	New York.
ESL Federal Credit Union	Rochester	New York.
Tioga State Bank	Spencer	New York.

Banco Santander Puerto Rico	San Juan	Puerto Rico.

Federal Home Loan Bank of Pittsburgh—District 3

County Bank	Rehoboth Beach	Delaware.
Chelten Hills Savings Bank	Abington	Pennsylvania.
Kishacoquillas Valley National Bank	Belleville	Pennsylvania.
CNB Bank	Clearfield	Pennsylvania.
Farmers National Bank of Emlenton	Emlenton	Pennsylvania.
Harleysville Savings Bank	Harleysville	Pennsylvania.
First National Bank of Pennsylvania	Hermitage	Pennsylvania.
The Honesdale National Bank	Honesdale	Pennsylvania.
Wayne Bank	Honesdale	Pennsylvania.
AmeriServe Financial Bank	Johnstown	Pennsylvania.
Luzerne National Bank	Luzerne	Pennsylvania.
Marion Center Bank	Marion Center	Pennsylvania.
Old Forge Bank	Old Forge	Pennsylvania.
First National Bank of Port Allegany	Port Allegany	Pennsylvania.
Community First Bank, N.A	Reynoldsville	Pennsylvania.
Farmers Building & Savings Bank	Rochester	Pennsylvania.
Eagle National Bank Upper	Darby	Pennsylvania.
Mountain Valley Bank, N.A	Elkins	West Virginia.
Calhoun County Bank, Inc	Grantsville	West Virginia.
Harrison County Bank	Lost Creek	West Virginia.
Union Bank, Inc	Middlebourne	West Virginia.
The Grant County Bank	Petersburg	West Virginia.
Citizens First Bank	Ravenswood	West Virginia.

Federal Home Loan Bank of Atlanta—District 4

Peoples Bank of Greensboro	Greensboro	Alabama.
Vision Bank	Gulf Shores	Alabama.
Cheaha Bank	Oxford	Alabama.
The Commercial Bank of Ozark	Ozark	Alabama.
Metro Bank	Pell City	Alabama.
CB & T Bank of East Alabama	Phenix City	Alabama.
Alabama Trust Bank, N.A. Sylacauga Alabama.		
The Farmers & Merchants Bank	Waterloo	Alabama.
The Citizens Bank of Winfield	Winfield	Alabama.
Adams National Bank	Washington	D.C.
Drummond Community Bank	Chiefland	Florida.
The International Bank of Miami, N.A	Coral Gables	Florida.
First National Bank of Pasco	Dade City	Florida.
1st National Bank of South Florida	Homestead	Florida.
Community Bank of Florida, Inc	Homestead	Florida.
Marine Bank	Marathon	Florida.
Security Bank, N.A	Margate	Florida.
Fidelity Bank of Florida	Merritt Island	Florida.
Coconut Grove Bank	Miami	Florida.
Peoples National Bank	Niceville	Florida.
Independent National Bank	Ocala	Florida.
Enterprise National Bank of Palm Beach	Palm Beach Gardens	Florida.
First State Bank	Sarasota	Florida.
Prosperity Bank of St. Augustine	St. Augustine	Florida.
Premier Bank	Tallahassee	Florida.
First National Bank of Wauchula	Wauchula	Florida.
BankFirst	Winter Park	Florida.
Alma Exchange Bank and Trust	Alma	Georgia.
First National Bank	South Alma	Georgia.
Citizens Bank of Americus	Americus	Georgia.
AFB & T	Athens	Georgia.
Silverton Bank, National Association	Atlanta	Georgia.
Fidelity Bank	Atlanta	Georgia.
Omni National Bank	Atlanta	Georgia.
Georgia Bank and Trust	Calhoun	Georgia.
Rabun County Bank	Clayton	Georgia.
Community Bank and Trust	Cornelia	Georgia.
Bank of Dudley	Dudley	Georgia.
Citizens Bank and Trust Company	Eastman	Georgia.
First National Bank of Griffin	Griffin	Georgia.
McIntosh State Bank	Jackson	Georgia.
Queensboro National Bank & Trust Company	Louisville	Georgia.
Bank of Madison	Madison	Georgia.
Exchange Bank	Milledgeville	Georgia.
Ameris Bank	Moultrie	Georgia.
The Tattnall Bank	Reidsville	Georgia.

Bryan Bank and Trust	Richmond Hill	Georgia.
Northwest Georgia Bank	Ringgold	Georgia.
Rossville Bank	Rossville	Georgia.
West Central Georgia Bank	Thomaston	Georgia.
Carrollton Bank	Baltimore	Maryland.
Frederick County Bank	Frederick	Maryland.
Glen Burnie Mutual Savings Bank	Glen Burnie	Maryland.
Hebron Savings Bank	Hebron	Maryland.
Bay National Bank	Lutherville	Maryland.
First Financial of Maryland FCU	Lutherville	Maryland.
Regal Bank & Trust	Owings Mills	Maryland.
The Queenstown Bank of Maryland	Queenstown	Maryland.
Blue Ridge Savings Bank, Inc	Asheville	North Carolina.
Cardinal State Bank	Durham	North Carolina.
Yadkin Valley Bank and Trust Company	Elkin	North Carolina.
The Fidelity Bank	Fuquay-Varina	North Carolina.
Bank of Granite	Granite Falls	North Carolina.
Sound Banking Company	Morehead City	North Carolina.
Morganton Federal Savings & Loan Association	Morganton	North Carolina.
Peoples Bank	Newton	North Carolina.
First Carolina State Bank	Rocky Mount	North Carolina.
Wake Forest Federal S&L Association	Wake Forest	North Carolina.
First Federal Savings and Loan Association	Charleston	South Carolina.
Crescent Bank	Charleston	South Carolina.
Southern First Bank	Greenville	South Carolina.
Horry County State Bank	Loris	South Carolina.
Community Resource Bank, NA	Orangeburg	South Carolina.
Virginia National Bank	Charlottesville	Virginia.
Bank of Hampton Roads	Chesapeake	Virginia.
The Old Point National Bank of Phoebus	Hampton	Virginia.
Grayson National Bank	Independence	Virginia.
Chesapeake Bank	Kilmarnock	Virginia.
Village Bank	Midlothian	Virginia.
BayPort Credit Union	Newport News	Virginia.
Central Virginia Bank	Powhaton	Virginia.
Citizens and Farmers Bank	West Point	Virginia.

Federal Home Loan Bank of Cincinnati—District 5

Citizens Deposit Bank of Arlington, Inc	Arlington	Kentucky.
Peoples Bank & Trust Company of Madison County	Berea	Kentucky.
Deposit Bank of Carlisle	Carlisle	Kentucky.
King Southern Bank	Chaplin	Kentucky.
The Farmers National Bank of Danville	Danville	Kentucky.
Dixon Bank	Dixon	Kentucky.
First Citizens Bank	Elizabethtown	Kentucky.
Farmers Bank & Capital Trust Company, Inc	Frankfort	Kentucky.
American Founders Bank, Inc	Frankfort	Kentucky.
Franklin Bank & Trust Company	Franklin	Kentucky.
Fort Knox FCU	Ft. Knox	Kentucky.
The Farmers Bank and Trust Company	Georgetown	Kentucky.
Henderson National Bank	Henderson	Kentucky.
United Southern Bank	Hopkinsville	Kentucky.
Century Bank of Kentucky	Lawrenceburg	Kentucky.
Republic Bank and Trust Company	Louisville	Kentucky.
FNB Bank, Inc	Mayfield	Kentucky.
Jackson County Bank	McKee	Kentucky.
The Farmers Bank of Milton	Milton	Kentucky.
Citizens Bank	Mt. Vernon	Kentucky.
Peoples Bank & Trust Company	Owenton	Kentucky.
Springfield State Bank	Springfield	Kentucky.
South Central Bank of Monroe County, Inc	Tompkinsville	Kentucky.
Citizens Deposit Bank & Trust	Vanceburg	Kentucky.
The Apple Creek Banking Company	Apple Creek	Ohio.
Sharefax Credit Union, Inc	Batavia	Ohio.
The First National Bank of Bellevue	Bellevue	Ohio.
Monitor Bank	Big Prairie	Ohio.
Cottage Savings Bank	Cincinnati	Ohio.
KEMBA Financial CU, Inc	Columbus	Ohio.
The Huntington National Bank	Columbus	Ohio.
The Community Bank	Crooksville	Ohio.
Citizens National Bank of Southwestern	Dayton	Ohio.
Dover-Phila Federal Credit Union	Dover	Ohio.
First Federal Community Bank	Dover	Ohio.
1st National Community Bank	East Liverpool	Ohio.
The Bankers Guarantee Title & Trust Company	Fairlawn	Ohio.

The Peoples Bank Inc	Gambier	Ohio.
The Genoa Banking Company	Genoa	Ohio.
Kentucky Teleco Federal Credit Union	Louisville	Ohio.
The Richland Trust Company	Mansfield	Ohio.
The Metamora State Bank	Metamora	Ohio.
Consumers National Bank	Minerva	Ohio.
The Henry County Bank	Napoleon	Ohio.
Home FS&LA of Niles	Niles	Ohio.
Community One Credit Union of Ohio	North Canton	Ohio.
The Osgood State Bank	Osgood	Ohio.
The Ottoville Bank Company	Ottoville	Ohio.
Somerville National Bank	Somerville	Ohio.
Erie Shores Credit Union, Inc	Toledo	Ohio.
Westfield Bank, FSB	Westfield Center	Ohio.
Bank of Cleveland	Cleveland	Tennessee.
Citizens Tri-County Bank	Dunlap	Tennessee.
Citizens Bank	Elizabethton	Tennessee.
Andrew Johnson Bank	Greeneville	Tennessee.
The Bank of Nashville	Nashville	Tennessee.
The Oakland Deposit Bank	Oakland	Tennessee.
Farmers Bank	Parsons	Tennessee.
First National Bank of Pulaski	Pulaski	Tennessee.
First Century Bank	Tazewell	Tennessee.

Federal Home Loan Bank of Indianapolis—District 6

Community State Bank	Avilla	Indiana.
Bath State Bank	Bath	Indiana.
First Bank of Berne	Berne	Indiana.
Monroe Bank	Bloomington	Indiana.
Farmers and Merchants Bank	Boswell	Indiana.
Farmers State Bank	Brookston	Indiana.
Irwin Union Bank and Trust Company	Columbus	Indiana.
Fountain Trust Company	Covington	Indiana.
DeMotte State Bank	DeMotte	Indiana.
Peoples State Bank	Ellettsville	Indiana.
Integra Bank NA	Evansville	Indiana.
Bank of Geneva	Geneva	Indiana.
MainSource Bank	Greensburg	Indiana.
Bippus State Bank	Huntington	Indiana.
National Bank of Indianapolis	Indianapolis	Indiana.
Salin Bank & Trust Company	Indianapolis	Indiana.
Kentland Bank	Kentland	Indiana.
Farmers State Bank	Lanesville	Indiana.
Community State Bank	Royal Center	Indiana.
Morris Plan Company	Terre Haute	Indiana.
Lake City Bank	Warsaw	Indiana.
Alden State Bank	Alden	Michigan.
Midwest Financial Credit Union	Ann Arbor	Michigan.
Home Federal Savings Bank	Detroit	Michigan.
First National Bank of America	East Lansing	Michigan.
Michigan Heritage Bank	Farmington Hills	Michigan.
The State Bank	Fenton	Michigan.
Dort Federal Credit Union	Flint	Michigan.
First Bank, Upper Michigan	Gladstone	Michigan.
United Bank of Michigan	Grand Rapids	Michigan.
Lansing Automakers Federal Credit Union	Lansing	Michigan.
Farmers State Bank of Munith	Munith	Michigan.
OUR Credit Union	Royal Oak	Michigan.

Federal Home Loan Bank of Chicago—District 7

Anchor State Bank	Anchor	Illinois.
First State Bank of Beardstown	Beardstown	Illinois.
Germantown Trust and Savings Bank	Breese	Illinois.
The Bank of Carbondale	Carbondale	Illinois.
Highland Community Bank	Chicago	Illinois.
Home State Bank, National Association	Crystal Lake	Illinois.
Farmers State Bank of Danforth	Danforth	Illinois.
Durand State Bank	Durand	Illinois.
First Community Bank	Elgin	Illinois.
St. Charles Bank and Trust	Geneva	Illinois.
First Eagle Bank	Hanover Park	Illinois.
Bank of Calhoun County	Hardin	Illinois.
Standard Bank and Trust Company	Hickory Hills	Illinois.
The First National Bank	Lacon	Illinois.

The Farmers Bank of Liberty	Liberty	Illinois.
Banterra Bank	Marion	Illinois.
Maroa Forsyth Community Bank	Maroa	Illinois.
First Mid-Illinois Bank & Trust, N.A	Mattoon	Illinois.
First State Bank	Mendota	Illinois.
Citizens State Bank of Milford	Milford	Illinois.
BankORION	Orion	Illinois.
South Side Trust & Savings Bank	Peoria	Illinois.
Bank of Pontiac	Pontiac	Illinois.
Princeville State Bank	Princeville	Illinois.
The Farmers National Bank of Prophetstown	Prophetstown	Illinois.
Marion County Savings Bank	Salem	Illinois.
Bank of Springfield	Springfield	Illinois.
First Community State Bank	Staunton	Illinois.
First National Bank in Taylorville	Taylorville	Illinois.
First National Bank of Waterloo	Waterloo	Illinois.
Williamsville State Bank & Trust	Williamsville	Illinois.
The Baraboo National Bank	Baraboo	Wisconsin.
Union Bank of Blair	Blair	Wisconsin.
First Wisconsin Bank & Trust Company	Brookfield	Wisconsin.
Great Midwest Bank, S.S.B	Brookfield	Wisconsin.
Bank North	Crivitz	Wisconsin.
First National Bank	Eagle River	Wisconsin.
Citizens Community Federal	Eau Claire	Wisconsin.
Royal Bank	Elroy	Wisconsin.
Oak Bank	Fitchburg	Wisconsin.
State Bank of Florence	Florence	Wisconsin.
Bank of Galesville	Galesville	Wisconsin.
First National Bank of Hartford	Hartford	Wisconsin.
Bank of Kenosha	Kenosha	Wisconsin.
Coulee Bank	La Crosse	Wisconsin.
Citizens State Bank of Loyal	Loyal	Wisconsin.
Bank of Luxemburg	Luxemburg	Wisconsin.
First Business Bank	Madison	Wisconsin.
Columbia Savings and Loan Association	Milwaukee	Wisconsin.
Citizens Bank of Mukwonago	Mukwonago	Wisconsin.
First State Bank	New London	Wisconsin.
S & C Bank	New Richmond	Wisconsin.
First Bank Financial Centre	Oconomowoc	Wisconsin.
River Valley State Bank	Rothschild	Wisconsin.
River Bank	Stoddard	Wisconsin.
Community Bank	Superior	Wisconsin.
Waldo State Bank	Waldo	Wisconsin.
Farmers & Merchants State Bank	Waterloo	Wisconsin.
InvestorsBank	Waukesha	Wisconsin.
Waukesha State Bank	Waukesha	Wisconsin.
Marathon Savings Bank	Wausau	Wisconsin.
John O. Melby & Company Bank	Whitehall	Wisconsin.
Chippewa Valley Bank	Winter	Wisconsin.
Woodford State Bank	Woodford	Wisconsin.

Federal Home Loan Bank of Des Moines—District 8

City State Bank	Central City	Iowa.
Midwest Heritage Bank	Chariton	Iowa.
Great River Bank & Trust	Davenport	Iowa.
Iowa State Bank	Des Moines	Iowa.
Peoples Savings Bank	Elma	Iowa.
Lee County Bank & Trust, N.A	Fort Madison	Iowa.
Grinnell State Bank	Grinnell	Iowa.
Security State Bank	Independence	Iowa.
Community First Bank	Keosauqua	Iowa.
Pleasantville State Bank	Pleasantville	Iowa.
First Federal Bank	Sioux City	Iowa.
Northeast Security Bank	Sumner	Iowa.
Farmers & Merchants Savings Bank	Waukon	Iowa.
Liberty Bank, FSB	West Des Moines	Iowa.
Earlham Savings Bank	West Des Moines	Iowa.
First Trust and Savings Bank	Wheatland	Iowa.
North American State Bank	Belgrade	Minnesota.
Bremer Bank, N.A	Brainerd	Minnesota.
First Security Bank—Canby	Canby	Minnesota.
Republic Bank, Inc	Duluth	Minnesota.
Bremer Bank, N.A	International Falls	Minnesota.
Security State Bank	Lewiston	Minnesota.
Pine Country Bank	Little Falls	Minnesota.

Minnwest Bank Luverne	Luverne	Minnesota.
Community Bank Vernon Center	Mankato	Minnesota.
Security State Bank of Marine	Marine on St. Croix	Minnesota.
First Minnetonka City Bank	Minnetonka	Minnesota.
Franklin National Bank of Minneapolis	Minneapolis	Minnesota.
Northeast Bank	Minneapolis	Minnesota.
Minnwest Bank Central	Montevideo	Minnesota.
Lake Region Bank	New London	Minnesota.
United Community Bank	Perham	Minnesota.
Farmers & Merchants State Bank of Pierz	Pierz	Minnesota.
Pine Island Bank	Pine Island	Minnesota.
First National Bank and Trust	Pipestone	Minnesota.
State Bank of Richmond	Richmond	Minnesota.
Minnesota First Credit and Savings, Inc	Rochester	Minnesota.
BEACONBANK	Shorewood	Minnesota.
Bremer Bank, N.A	South St. Paul	Minnesota.
Farmers & Merchants State Bank of Springfield	Springfield	Minnesota.
Liberty Savings Bank, fsb	St. Cloud	Minnesota.
Capital Bank	St. Paul	Minnesota.
First Integrity Bank, National Association	Staples	Minnesota.
Central Bank	Stillwater	Minnesota.
Northern State Bank of Thief River Falls	Thief River Falls	Minnesota.
Paragon Bank	Wells	Minnesota.
State Bank of Wheaton	Wheaton	Minnesota.
Bremer Bank, N.A	Willmar	Minnesota.
Winona National Bank	Winona	Minnesota.
Bank of Advance	Advance	Missouri.
Carroll County Savings and Loan Association	Carrollton	Missouri.
First Midwest Bank of Dexter	Dexter	Missouri.
Farmers & Merchants Bank of Hale	Hale	Missouri.
F&C Bank	Holden	Missouri.
Midwest Independent Bank	Jefferson City	Missouri.
Bank Midwest	Kansas City	Missouri.
Union Bank	Kansas City	Missouri.
Alliant Bank	Kirksville	Missouri.
First Community Bank	Lee's Summit	Missouri.
Martinsburg Bank and Trust	Mexico	Missouri.
Central Bank of Lake of the Ozarks	Osage Beach	Missouri.
First Midwest Bank of Poplar Bluff	Poplar Bluff	Missouri.
First Community Bank, Missouri	Poplar Bluff	Missouri.
Bank of Rothville	Rothville	Missouri.
Citizens National Bank of Greater St. Louis	St. Louis	Missouri.
Anheuser-Busch Employees' Credit Union	St. Louis	Missouri.
Neighbors Credit Union	St. Louis	Missouri.
Jefferson Bank & Trust	St. Louis	Missouri.
First Community National Bank	Steelville	Missouri.
Bank of Sullivan	Sullivan	Missouri.
Bank of Crocker	Waynesville	Missouri.
West Plains Bank & Trust Company	West Plains	Missouri.
Bank of Weston	Weston	Missouri.
Enterprise Bank & Trust	Wheaton	Missouri.
American Bank Center First	Bismarck	North Dakota.
Bank of North Dakota	Bismarck	North Dakota.
Country Bank, USA	Cando	North Dakota.
Security First Bank of North Dakota	Center	North Dakota.
Choice Financial Group	Grafton	North Dakota.
American State Bank and Trust Company	Williston	North Dakota.
First National Bank	Pierre	South Dakota.
The First National Bank in Sioux Falls	Sioux Falls	South Dakota.

Federal Home Loan Bank of Dallas—District 9

Union Bank of Benton	Benton	Arkansas.
First National Bank of Berryville	Berryville	Arkansas.
First National Bank of Izard County	Calico Rock	Arkansas.
First Security Bank of Conway	Conway	Arkansas.
Arkansas County Bank	DeWitt	Arkansas.
Bank of England	England	Arkansas.
First National Bank	Green Forest	Arkansas.
Helena National Bank	Helena	Arkansas.
Liberty Bank of Arkansas	Jonesboro	Arkansas.
Bank of Little Rock	Little Rock	Arkansas.
First Community Bank of Eastern Arkansas	Marion	Arkansas.
Commercial Bank and Trust	Monticello	Arkansas.
First National Bank & Trust Company	Mountain Home	Arkansas.
Chart Bank	Perryville	Arkansas.

Simmons First National Bank	Pine Bluff	Arkansas.
Bank of Prescott	Prescott	Arkansas.
Riverside Bank	Sparkman	Arkansas.
First National Bank	Arcadia	Louisiana.
Citizens National Bank, N.A	Bossier City	Louisiana.
Parish National Bank	Covington	Louisiana.
Guaranty Bank & Trust Company of Delhi	Delhi	Louisiana.
Catahoula—LaSalle Bank	Jonesville	Louisiana.
Progressive National Bank of DeSoto Parish	Mansfield	Louisiana.
Bank of Maringuoin	Maringuoin	Louisiana.
Louisiana Corporate Credit Union	Metarie	Louisiana.
Whitney National Bank	New Orleans	Louisiana.
Guaranty Bank and Trust Company	New Roads	Louisiana.
Tensas State Bank	Newellton	Louisiana.
Patterson State Bank	Patterson	Louisiana.
Iberville Bank	Plaquemine	Louisiana.
Rayne State Bank & Trust Company	Rayne	Louisiana.
Teche Bank & Trust Company	St. Martinville	Louisiana.
Bank of Sunset and Trust Company	Sunset	Louisiana.
Washington State Bank	Washington	Louisiana.
Forest Kraft FCU	West Monroe	Louisiana.
Community Bank, Coast	Biloxi	Mississippi.
Citizens Bank	Columbia	Mississippi.
Jefferson Bank	Fayette	Mississippi.
First Commercial Bank	Jackson	Mississippi.
Bank of Kilmichael	Kilmichael	Mississippi.
Peoples Bank	Mendenhall	Mississippi.
Bank of Morton	Morton	Mississippi.
Merchants and Planters Bank	Raymond	Mississippi.
Richton Bank & Trust Company	Richton	Mississippi.
Delta Southern Bank	Ruleville	Mississippi.
First State Bank	Waynesboro	Mississippi.
Sunrise Bank of Albuquerque	Albuquerque	New Mexico.
High Desert State Bank	Albuquerque	New Mexico.
MainBank	Albuquerque	New Mexico.
Farmers & Stockmens Bank	Clayton	New Mexico.
Valley National Bank	Espanola	New Mexico.
Lea County State Bank	Hobbs	New Mexico.
Bank of the Rio Grande, N.A	Las Cruces	New Mexico.
Mesilla Valley Bank	Las Cruces	New Mexico.
Bank of the Southwest	Roswell	New Mexico.
City Bank New Mexico	Ruidoso	New Mexico.
West Texas National Bank	Alpine	Texas.
Bank of Texas	Austin	Texas.
Balinger National Bank	Balinger	Texas.
Vintage Bank	Barlett	Texas.
Mobiloil FCU	Beaumont	Texas.
Bloomburg State Bank	Bloomburg	Texas.
First Bank and Trust of Childress	Childress	Texas.
Southwest Bank of Fort Worth	Fort Worth	Texas.
HomeTown Bank, N.A	Galveston	Texas.
Gruver State Bank	Gruver	Texas.
Hull State Bank	Hull	Texas.
Industry State Bank	Industry	Texas.
The First National Bank of Refugio	Refugio	Texas.
Synergy Bank, SSB	Waco	Texas.
Citizens National Bank of Texas	Waxahachie	Texas.
White Oak State Bank	White Oak	Texas.
American Bank of Commerce	Wolfforth	Texas.
Citizens State Bank	Woodville	Texas.

Federal Home Loan Bank of Topeka—District 10

The Farmers State Bank of Fort Morgan	Fort Morgan	Colorado.
The Citizens National Bank of Akron	Akron	Colorado.
First Southwest Bank	Alamosa	Colorado.
Fitzsimons FCU	Aurora	Colorado.
Boulder Valley Credit Union	Boulder	Colorado.
FlatIrons Bank	Boulder	Colorado.
Boulder Municipal Employee FCU	Boulder	Colorado.
The Eastern Colorado Bank	Cheyenne Wells	Colorado.
Colorado National Bank	Colorado Springs	Colorado.
FirstBank of El Paso County	Colorado Springs	Colorado.
5Star Bank	Colorado Springs	Colorado.
Bank of Denver	Denver	Colorado.
FirstBank of Cherry Creek	Denver	Colorado.

FirstBank of Denver	Denver	Colorado.
First Western Trust Bank	Denver	Colorado.
Westerra Credit Union	Denver	Colorado.
Public Employees Credit Union	Denver	Colorado.
Millennium Bank	Edwards	Colorado.
Trust Company of America	Englewood	Colorado.
Fort Morgan State Bank	Fort Morgan	Colorado.
Grand Mountain Bank FSB	Granby	Colorado.
FNB of the Rockies	Grand Junction	Colorado.
Timberline Bank	Grand Junction	Colorado.
Grand Valley National Bank	Grand Junction	Colorado.
Bellco First FCU	Greenwood Village	Colorado.
First State Bank	Hotchkiss	Colorado.
Colorado Bank & Trust Company	La Junta	Colorado.
FirstBank of Colorado, Lakewood	Lakewood	Colorado.
FirstBank of Longmont	Lakewood	Colorado.
FirstBank of South Jeffco	Lakewood	Colorado.
First Mountain Bank	Leadville	Colorado.
Horizons Bank	Limon	Colorado.
FirstBank	Littleton	Colorado.
FirstBank of Adams County	Northgleen	Colorado.
Citizens Bank of Pagosa Springs	Pagosa	Colorado.
North Valley Bank	Thornton	Colorado.
The FNB in Trinidad	Trinidad	Colorado.
International Bank	Trinidad	Colorado.
Mountain Valley Bank	Walden	Colorado.
First Pioneer National Bank	Wary	Colorado.
Wray State Bank	Wray	Colorado.
Labette Bank	Altamont	Kansas.
Equity	Andover	Kansas.
Union State Bank	Arkansas City	Kansas.
The Exchange National Bank	Atchison	Kansas.
Baxter State Bank	Baxter Springs	Kansas.
Bank of the Prairie	Beattie	Kansas.
First National Bank of Beloit	Beloit	Kansas.
First National Bank of Kansas	Burlington	Kansas.
Farmers & Merchants State Bank	Cawker City	Kansas.
First National Bank of Centralia	Centralia	Kansas.
Union State Bank of Clay Center	Clay Center	Kansas.
Peoples Bank	Coldwater	Kansas.
Swedish-American State Bank	Courtland	Kansas.
State Bank of Delphos	Delphos	Kansas.
Verus Bank, NA	Derby	Kansas.
First National Bank of Elkhart	Elkhart	Kansas.
Ellis State Bank	Ellis	Kansas.
First Community Bank	Emporia	Kansas.
Lyon County State Bank	Emporia	Kansas.
First National Bank of Frankfort	Frankfort	Kansas.
Golden Plains Credit Union	Garden City	Kansas.
Citizens State Bank	Gridley	Kansas.
First National Bank of Harveyville	Harveyville	Kansas.
BankHaven	Haven	Kansas.
First National Bank	Hays	Kansas.
The Citizens State Bank and Trust Company	Hiawatha	Kansas.
First Kansas Bank	Hoisington	Kansas.
First National Bank of Hope	Hope	Kansas.
Citizens State Bank	Hugoton	Kansas.
The First National Bank of Hutchinson, Kansas	Hutchinson	Kansas.
First National Bank & Trust Company	Junction City	Kansas.
Brotherhood Bank & Trust Company	Kansas City	Kansas.
Peoples Bank	Lawrence	Kansas.
Town & Country Bank	Leawood	Kansas.
U. S. Central Federal Credit Union	Lenexa	Kansas.
First National Bank of LeRoy	LeRoy	Kansas.
The Community Bank	Liberal	Kansas.
First National Bank of Louisburg	Louisburg	Kansas.
Lyndon State Bank	Lyndon	Kansas.
Landmark National Bank	Manhattan	Kansas.
Community First National Bank	Manhattan	Kansas.
Peoples State Bank	McDonald	Kansas.
Peoples Bank & Trust Company	McPherson	Kansas.
Home State Bank & Trust Company	McPherson	Kansas.
Farmers Alliance Mutual Insurance Company	McPherson	Kansas.
First National Bank of Southern Kansas	Mount Hope	Kansas.
First Neodesha Bank	Neodesha	Kansas.
Kansas State Bank	Ottawa	Kansas.

Cornerstone Bank	Overland Park	Kansas.
First National Bank of Kansas	Overland Park	Kansas.
Hillcrest Bank	Overland Park	Kansas.
Commercial Bank	Parsons	Kansas.
First National Bank and Trust	Phillipsburg	Kansas.
Midwest Community Bank	Plainview	Kansas.
Country Club Bank, NA	Shawnee Mission	Kansas.
The Exchange State Bank	St. Paul	Kansas.
Farmers National Bank of Stafford	Stafford	Kansas.
Towanda State Bank	Towanda	Kansas.
Grant County Bank	Ulysses	Kansas.
Union State Bank	Uniontown	Kansas.
Trego-WaKeeney State Bank	WaKeeney	Kansas.
Farmers and Merchants State Bank	Wakefield	Kansas.
Security State Bank	Wellington	Kansas.
Farmers State Bank of Westmoreland	Westmoreland	Kansas.
Credit Union of America	Wichita	Kansas.
Wilson State Bank	Wilson	Kansas.
CornerBank, N.A	Winfield	Kansas.
Pony Express Community Bank	St. Joseph	Missouri.
Battle Creek State Bank	Battle Creek	Nebraska.
First National Bank	Beemer	Nebraska.
Columbus Bank and Trust Company	Columbus	Nebraska.
Fremont National Bank	Fremont	Nebraska.
Fullerton National Bank	Fullerton	Nebraska.
Thayer County Bank	Hebron	Nebraska.
Union Bank & Trust Company	Lincoln	Nebraska.
McCook National Bank	McCook	Nebraska.
Adams Bank & Trust	Ogallala	Nebraska.
Omaha State Bank	Omaha	Nebraska.
First Westroads Bank, Inc	Omaha	Nebraska.
Mutual First Federal Credit Union	Omaha	Nebraska.
Metro Health Services Federal Credit Union	Omaha	Nebraska.
First National Bank in Ord	Ord	Nebraska.
First National Bank	Schuyler	Nebraska.
The Stanton National Bank	Stanton	Nebraska.
Farmers & Merchants State Bank	Wayne	Nebraska.
First United Bank and Trust Company	Durant	Oklahoma.
Central National Bank and Trust Company	Enid	Oklahoma.
The Farmers and Merchants NB of Fairview	Fairview	Oklahoma.
Security First National Bank	Hugo	Oklahoma.
First Fidelity Bank, N.A	Oklahoma City	Oklahoma.
Pauls Valley National Bank	Pauls Valley	Oklahoma.
First State Bank in Temple	Temple	Oklahoma.
First Farmers National Bank of Waurika	Waurika	Oklahoma.

Federal Home Loan Bank of San Francisco—District 11

Desert Hills Bank	Phoenix	Arizona.
Sunrise Bank of Arizona	Phoenix	Arizona.
Stearns Bank Arizona, NA	Scottsdale	Arizona.
Bank of Alameda	Alameda	California.
City National Bank	Beverly Hills	California.
First Bank of Beverly Hills	Calabasas	California.
Evertrust Bank	City of Industry	California.
Vineyard Bank, N.A	Corona	California.
Pacific Mercantile Bank	Costa Mesa	California.
Stockmans Bank	Elk Grove	California.
Premier Valley Bank	Fresno	California.
Imperial Capital Bank	La Jolla	California.
1st Pacific Bank of California	La Jolla	California.
Gold Country Bank, NA	Marysville	California.
Circle Bank	Novato	California.
Summit Bank	Oakland	California.
Addison Avenue Federal Credit Union	Palo Alto	California.
Sterlent Credit Union	Peasonton	California.
The Mechanics Bank	Richmond	California.
Altura Credit Union	Riverside	California.
The Bank of Hemet	Riverside	California.
The Golden 1 Credit Union	Sacramento	California.
Bank of Sacramento	Sacramento	California.
Arrowhead Central Credit Union	San Bernardino	California.
Bank of America California, N.A	San Francisco	California.
Trans Pacific National Bank	San Francisco	California.
Bank of the West	San Francisco	California.
Borel Private Bank & Trust Company	San Mateo	California.

Montecito Bank & Trust	Santa Barbara	California.
Santa Clara Valley, N.A	Santa Paula	California.
Community Bank of San Joaquin	Stockton	California.
Mission Oaks National Bank	Temecula	California.
First Financial Credit Union	West Covina	California.
Nevada State Bank	Las Vegas	Nevada.
Bank of Nevada	Las Vegas	Nevada.
Desert Community Bank	Las Vegas	Nevada.
Nevada Security Bank	Reno	Nevada.

Federal Home Loan Bank of Seattle—District 12

Bank of Hawaii	Honolulu	Hawaii.
D.L. Evans Bank	Burley	Idaho.
bankcda	Coeur D'Alene	Idaho.
Citizens Bank and Trust Company	Big Timber	Montana.
First Interstate Bank	Billings	Montana.
Bank of Bridger	Bridger	Montana.
Citizens State Bank of Choteau	Choteau	Montana.
First Security Bank of Deer Lodge	Deer Lodge	Montana.
State Bank & Trust Company	Dillon	Montana.
First National Bank of Fairfield	Fairfield	Montana.
First Citizens Bank	Polson	Montana.
1st Bank	Sidney	Montana.
Lake County Bank	St. Ignatius	Montana.
Ruby Valley National Bank	Twin Bridges	Montana.
Bank of the Rockies, N.A	White Sulphur Springs	Montana.
Whitefish Credit Union	Whitefish	Montana.
OSU Federal Credit Union	Corvallis	Oregon.
Mbank	Gresham	Oregon.
Community Bank	Joseph	Oregon.
Barnes Banking Company	Kaysville	Utah.
Cache Valley Bank	Logan	Utah.
Peninsula Community FCU	Shelton	Utah.
Southwest Community FCU	St. George	Utah.
Peoples Bank	Lynden	Washington.
Inland Northwest Bank	Spokane	Washington.
Sound Credit Union	Tacoma	Washington.
IQ Credit Union	Vancouver	Washington.
Shoshone First Bank	Cody	Wyoming.

II. Public Comments

To encourage the submission of public comments on the community support performance of Bank members, on or before April 25, 2008, each Bank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 2008–09 first quarter review cycle. 12 CFR 944.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. 12 CFR 944.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 2008–09 first quarter review cycle must be delivered to the Finance Board on or before the May 30, 2008 deadline for submission of Community Support Statements.

Dated: April 2, 2008.

Neil R. Crowley,

Acting General Counsel.

[FR Doc. E8–7510 Filed 4–10–08; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 5, 2008.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) P.O. Box 55882, Boston, Massachusetts 02106–2204:

1. Green Valley Bancorp, MHC, and Green Valley Bancorp, Inc.; to become bank holding companies by acquiring

100 percent of the voting shares of Southbridge Savings Bank, all of Southbridge, Massachusetts.

B. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. The Hibshman Trust for Ephrata National Bank Stock; to acquire 31.2 percent of the voting shares of ENB Financial Corp., and thereby indirectly acquire voting shares of Ephrata National Bank, all of Ephrata, Pennsylvania.

C. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Reliable Community Bancshares, Inc., Perryville, Missouri; to acquire 100 percent of the voting shares of Countryside Bancshares, Inc., and thereby indirectly acquire Countryside Bank, both of Republic, Missouri.

Board of Governors of the Federal Reserve System, April 7, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–7645 Filed 4–10–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 8, 2008.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Hampton Roads Bankshares, Inc., Norfolk, Virginia; to acquire 100 percent of the voting shares of Shore Financial Corporation, and thereby indirectly acquire voting shares of Shore Bank, both of Onley, Virginia.

Board of Governors of the Federal Reserve System, April 8, 2008.

Margaret McCloskey Shanks,

Associate Secretary of the Board.

[FR Doc. E8–7762 Filed 4–10–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Public Meetings; Application by Bank of America Corporation, Charlotte, NC, To Acquire Countrywide Financial Corporation, Calabasas, CA

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of public meetings.

SUMMARY: The Board will hold public meetings in Los Angeles, California, and Chicago, Illinois, regarding the notice submitted by Bank of America Corporation, Charlotte, North Carolina, to acquire Countrywide Financial Corporation, Calabasas, California, and Countrywide Bank, FSB, Alexandria, Virginia, as well as certain other nonbanking subsidiaries, pursuant to the Bank Holding Company Act (''BHC Act'') and related statutes. The purpose of the public meetings is to collect information relating to factors the Board is required to consider under the BHC Act.

DATES: The Los Angeles, California, meeting will be held on Monday, April 28, 2008, and Tuesday, April 29, 2008, beginning at 8:30 a.m. PDT. The Chicago, Illinois, meeting will be held on Tuesday, April 22, 2008, beginning at 8:30 a.m. CDT.

ADDRESSES: The public meeting in Los Angeles, California, will be held at the Los Angeles Branch of the Federal Reserve Bank of San Francisco, 950 South Grand Avenue, Los Angeles, California. The public meeting in Chicago, Illinois, will be held at the Federal Reserve Bank of Chicago, 230 South LaSalle Street, Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT: For the Los Angeles meeting, contact Scott Turner, Community Affairs Officer, Federal Reserve Bank of San Francisco, 101 Market Street, San Francisco, California 94105 (phone: 415/974–2722; facsimile: 415/393–1920). For the Chicago meeting, contact Alicia Williams, Vice President, Federal Reserve Bank of Chicago, 230 South LaSalle Street, Chicago, Illinois 60604 (phone: 312/322–5910; facsimile: 312/913–2626).

SUPPLEMENTARY INFORMATION: On February 15, 2008, Bank of America Corporation, Charlotte, North Carolina (''Bank of America'') requested the Board's approval under the BHC Act and related statutes to acquire Countrywide Financial Corporation, Calabasas, California (''Countrywide''), and thereby acquire Countrywide's wholly owned savings association subsidiary, Countrywide Bank, FSB, as well as Countrywide's other nonbanking subsidiaries. The Board hereby orders that public meetings on the Bank of America/Countrywide proposal be held in Los Angeles, California, and Chicago, Illinois.

Purpose and Procedures

The public meetings will collect information relating to factors the Board is required to consider under the BHC Act. The factors the BHC Act requires the Board to consider include whether the notificant's performance of the activities can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, and gains in efficiency) that outweigh possible adverse effects (such as undue concentration of resources, decreased or unfair competition, conflicts of interests, and unsound banking practices). Consideration of the above factors includes an evaluation of the financial and managerial resources of the notificant, including its subsidiaries, and any company to be acquired; the effect of the proposed transaction on those resources; and the management expertise, internal control and risk-management systems, and capital of the entity conducting the activity. In acting on a notice to acquire a savings association, the Board also reviews the records of performance of the insured depository institutions involved in the proposal under the Community Reinvestment Act, which requires the Board to take into account a relevant institution's record of meeting the credit needs of its entire community,

including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the institution. 12 U.S.C. § 2903.

Procedures for Hearing

Testimony at the public meetings will be presented to a panel consisting of a Presiding Officer and other panel members appointed by the Presiding Officer. In conducting the public meetings, the Presiding Officer will have the authority and discretion to ensure that the meetings proceed in a fair and orderly manner. In contrast to a formal administrative hearing, the rules for taking evidence will not apply to the public meetings. Panel members may question witnesses but no cross-examination of witnesses will be permitted. The public meetings will be transcribed, and the transcripts will be posted on the Board's public website within several days after the meetings. Information regarding the procedures for obtaining a copy of the transcript will be announced at the public meetings.

On the basis of the requests received, the Presiding Officer will prepare a schedule for participants who will testify and establish the order of presentation. To ensure an opportunity for all interested commenters to present their views, the Presiding Officer may limit the time for presentation. Individuals not listed on the schedule may be permitted to speak at the public meeting if time permits at the conclusion of the schedule of witnesses, at the discretion of the Presiding Officer. Copies of testimony may, but need not, be filed with the Presiding Officer before a participant's presentation.

Request To Testify

All persons wishing to testify at the public meeting to be held in Los Angeles must submit a written request to Scott Turner, Community Affairs Officer, Federal Reserve Bank of San Francisco, 101 Market Street, San Francisco, California 94105 (facsimile: 415/393–1920) no later than 5 p.m. PDT on April 15, 2008. All persons wishing to testify at the public meeting to be held in Chicago must submit a written request to Alicia Williams, Vice President, Federal Reserve Bank of Chicago, 230 South LaSalle Street, Chicago, Illinois 60604 (facsimile: 312/913–2626) no later than 5 p.m. CDT on April 15, 2008.

The request to testify must include the following information: (i) Identification of which meeting (and which day for the Los Angeles meeting) the participant wishes to attend; (ii) a brief statement of the nature of the expected testimony (including whether the testimony will support or oppose the proposed transaction or provide other comment on the proposal) and the estimated time required for the presentation; (iii) the address and telephone number (and e-mail address and facsimile number, if available) of the individual testifying; and (iv) identification of any special needs, such as individuals needing translation services, individuals with a physical disability who may need assistance, or individuals requiring visual aids for their presentation. To the extent available, translators will be provided for those wishing to present their views in a language other than English if so requested in the request to testify. Individuals interested only in attending the meeting, but not testifying, need not submit a written request.

By order of the Board of Governors of the Federal Reserve System, effective April 8, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–7758 Filed 4–10–08; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–08–0010]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have 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. Written comments should be received within 60 days of this notice.

Proposed Project

The National Birth Defects Prevention Study (NBDPS), (OMB 0920–0010)—Extension—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC has been monitoring the occurrence of serious birth defects and genetic diseases in Atlanta since 1967 through the Metropolitan Atlanta Congenital Defects Program (MACDP). The MACDP is a population-based surveillance system for birth defects in the 5 counties of Metropolitan Atlanta. Its primary purpose is to describe the spatial and temporal patterns of birth defects occurrence and serves as an early warning system for new Teratogens. In 1997, the Birth Defects Risk Factor Surveillance (BDRFS) study, a case-control study of risk factors for selected birth defects, became the National Birth Defects Prevention Study (NBDPS). The major components of the study did not change.

The NBDPS is a case-control study of major birth defects that includes cases identified from existing birth defect surveillance registries in nine states, including metropolitan Atlanta. Control infants are randomly selected from birth certificates or birth hospital records. Mothers of case and control infants are interviewed using a computer-assisted telephone interview. The interview is estimated to take one hour. A maximum of four hundred interviews are planned, 300 cases and 100 controls resulting in a maximum interview burden of 400 hours for each of the Centers.

Parents are also asked to collect cheek cells from themselves and their infants for DNA testing. The collection of cheek cells by the mother, father, and infant is estimated to take about 10 minutes per person. Each person will be asked to rub 1 brush inside the left cheek and 1 brush inside the right cheek for a total of 2 brushes per person. Collection of the cheek cells takes approximately 1–2 minutes, but the estimate of burden is 10 minutes to account for reading and understanding the consent form and specimen collection instructions and mailing back the completed kits. The anticipated maximum burden for

collection of the cheek cells is 200 hours.

Information gathered from both the interviews and the DNA specimens will be used to study independent genetic and environmental factors as well as gene-environment interactions for a broad range of carefully classified birth defects.

This request is submitted to obtain OMB clearance for three additional years.

There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hours)	Total burden hours
NBDPS case/control interview	400	1	1	400
Biologic Specimen Collection	1,200	1	10/60	200
Total				600

Dated: April 3, 2008.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–7706 Filed 4–10–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–263]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects:

(1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Site Investigation for Durable Medical Equipment (DME) Suppliers; *Use:* The Centers for Medicare and Medicaid Services (CMS) enrolls durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) suppliers into the Medicare program via a uniform application, the CMS 855S. Implementation of enhanced procedures for verifying the enrollment information has improved the enrollment process as well as identified and prevented fraudulent DMEPOS suppliers from entering the Medicare program. As part of this process, verification of compliance with supplier standards is necessary. The site investigation form has been used in the past to aid the Medicare contractor (the National Supplier Clearinghouse (NSC) and/or its subcontractors) in verifying compliance with the required supplier standards found in 42 CFR 424.57(c). The primary function of the site investigation form is to provide a standardized, uniform tool to gather information from a DMEPOS supplier that tells us whether it meets certain qualifications to be a DMEPOS supplier (as found in 42 CFR 424.57(c)) and where it practices or renders its services. *Form Number:* CMS–R–263 (OMB# 0938–0749); *Frequency:* Occasionally; *Affected Public:* Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 30,000; *Total Annual Responses:* 30,000; *Total Annual Hours:* 15,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by June 10, 2008:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov*. Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ___, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: April 4, 2008.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E8–7709 Filed 4–10–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Administration for Native Americans

AGENCY: Administration for Native Americans, ACF, HHS.

ACTION: Notice to Award Urgent Grants.

CFDA #: 93.612.

Legislative Authority: This award will be made pursuant to Section 803 of the Native American Programs Act of 1974.

Amount of Award: Six awards for a total of $649,404.

Project Period: Up to six months.

SUMMARY: This notice is to inform the public that the Administration for Native Americans (ANA) intends to announce six (6) urgent grant awards. The urgent grant awards will fund

projects that are designed to mitigate the impact of the devastation created by the Southern California Wildfires of October 2007. As a result of the devastating wildfires that destroyed approximately 1,500 homes and 500,000 acres of land, ANA is providing urgent financial assistance to five Tribes and one Tribal Association to address a variety of restoration activities that include reforestation and revegetation, debris removal, erosion control and restoration, emergency planning and preparedness. Contained herein is a description of the projects to be funded:

• Rincon Band of Luiseno Indians ($114,977 for 6 months) This project will assist in the restoration of 4,250 acres of tribal lands with the planting of 6,750 cottonwood, sycamore, and oak seedlings to provide erosion control.

• Santa Ysabel Band of Diegueno Indians ($155,230 for 6 months) This project will protect existing properties, protect the health and safety of community members, and make 300 acres of the reservation less vulnerable to wildfires.

• La Jolla Band of Luiseno Indians ($150,353 for 6 months) The goal of the project is to protect tribal residents from injury, death or displacement and reduce the possibility of damage or losses to existing assets, particularly critical facilities/infrastructures owned by the tribe. The project will clear four drainage channels of debris that currently present a fire/flooding threat.

• Mesa Grande Band of Mission Indians ($72,772 for 6 months) This project will insure the safety of tribal members and protect tribal assets through the thinning and clearing of fire prone debris on 280 acres of tribal land.

• Pauma Band of Mission Indians ($29,949 for 3 months) This project will stabilize the banks of Pauma Creek to protect lives and property on the Pauma Reservation by placing cut rock along the Pauma Creek banks to prevent flooding.

• Southern California Tribal Chairman's Association ($126,123 for 6 months) This project will restore connectivity to the rural Tribes in Southern California by reestablishing access of high speed internet services with the reconstruction of one tower, repair of a second tower, and the repair and replacement of power sources and radio equipment for three towers. It will also develop, print, and disseminate disaster prevention brochures to all tribal members of the Southern California Tribes to provide information and inform them of the real-time access to information through the Internet.

FOR FURTHER INFORMATION CONTACT: Christopher Beach, ANA Program Specialist, Administration for Native Americans, 370 L'Enfant Promenade, SW., Washington, DC 20047. Telephone: 877–922–9262, e-mail: *Christopher.Beach@acf.hhs.gov.*

Dated: April 7, 2008.

Quanah Crossland Stamps,

Commissioner, Administration for Native Americans.

[FR Doc. E8–7808 Filed 4–10–08; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: CIGP.

Date: May 8, 2008.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Patricia Greenwel, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2174, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Health Economics and Demography.

Date: May 14, 2008.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–435–1262, *chanetsaf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Epidemiology and Genetics of Cancer.

Date: May 15–16, 2008.

Time: 10 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–435–1262, *chanetsaf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Health of the Population Member SEP.

Date: May 15, 2008.

Time: 10:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–435–1262, *chanetsaf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cancer Screening and Outcomes.

Date: May 15, 2008.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–435–1262, *chanetsaf@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group, Vaccines Against Microbial Diseases Study Section.

Date: May 19–20, 2008.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Jian Wang, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7812, Bethesda, MD 20892, (301) 435–2778, *wangjia@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Epidemiology and Genetics of Mental Health.

Date: May 19, 2008.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–435–1262, *chanetsaf@csr.nih.gov.*

Name of Committee: Digestive Sciences Integrated Review Group, Clinical and Integrative Gastrointestinal Pathobiology Study Section.

Date: May 22, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Gaslamp Quarter, 910 Broadway Circle, San Diego, CA 92101.

Contact Person: Mushtaq A. Khan, DVM, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, 301–435–1778, *khanm@csrVnih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical Special Emphasis Panel in Digestive Sciences.

Date: May 28, 2008.

Time: 3 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Najma Begum, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892, 301–435–1243, *begumn@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics, Integrated Review Group, Biochemistry and Biophysics of Membranes Study Section.

Date: May 29–30, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: La Jolla Shores Hotel, 8110 Camino del Oro, La Jolla, CA 92037.

Contact Person: Nuria E. Assa-Munt, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451–1323, *assamunu@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group, Instrumentation and Systems Development Study Section.

Date: May 29–30, 2008.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Ping, Fan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892, 301–435–1740, *fanp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pilot-scale Libraries for High-throughput Screening.

Date: May 29, 2008.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Kathryn M. Koeller, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–2681, *koetlerk@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group, Biodata Management and Analysis Study Section.

Date: June 2, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: George W. Chacko, PhD, MVSC Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7849, Bethesda, MD 20892, 301–435–1245, *chackoge@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group, Modeling and Analysis of Biological Systems Study Section.

Date: June 2–3, 2008.

Time: 8 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Malgorzata Klosek, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7849, Bethesda, MD 20892, (301) 435–2211, *klosekm@mail.nih.gov.*

Name of Committee: Respiratory Sciences Integrated Review Group, Lung Cellular, Molecular, and Immunobiology Study Section.

Date: June 2–3, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Brookshire Suites, 120 East Lombard Street, Baltimore, MD 21202.

Contact Person: George M. Barnas, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, 301–435–0696, *barnasg@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group, Skeletal Biology Structure and Regeneration Study Section.

Date: June 2–3, 2008.

Time: 8 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: Mehrdad M. Tondravi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, 301–435–1173, *tondravm@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group, Atherosclerosis and Inflammation of the Cardiovascular System Study Section.

Date: June 2–3, 2008.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Larry Pinkus, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Software Maintenance and Extension.

Date: June 3, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: George W. Chacko, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7849, Bethesda, MD 20892, 301–435–1245, *chackoge@csr.nih.gov.*

Name of Committee: Digestive Sciences Integrated Review Group, Gastrointestinal Cell and Molecular Biology Study Section.

Date: June 3, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Najma Begum, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892, 301–435–1243, *begumn@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience, Integrated Review Group, Cellular and Molecular Biology of Neurodegeneration Study Section.

Date: June 3–4, 2008.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1000 29th Street, NW., Washington, DC 20007.

Contact Person: Carole L. Jelsema, PhD, Chief and Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7850, Bethesda, MD 20892, (301) 435–1248, *jelsemac@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pilot and Feasibility Clinical Studies in Digestive Diseases and Nutrition.

Date: June 3, 2008.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Peter J. Perrin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0682, *perrinp@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group, Gene and Drug Delivery Systems Study Section.

Date: June 4–5, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Lombardy, 2019 Pennsylvania Avenue, NW., Washington, DC 20006.

Contact Person: Steven J. Zullo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5146, MSC 7849, Bethesda, MD 20892, 301–435–2810, *zullost@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group, Myocardial Ischemia and Metabolism Study Section.

Date: June 5–6, 2008.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Joyce C. Gibson, DSC, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, 301–435–4522, *gibsonj@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group, Biobehavioral Mechanisms of Emotion, Stress and Health Study Section.

Date: June 5–6, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hotel Lombardy, 2019 Pennsylvania Avenue, NW., Washington, DC 20006.

Contact Person: Maribeth Champoux, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7759, Bethesda, MD 20892, 301–594–3163, *champoum@csr.nih.gov.*

Name of Committee: Hematology Integrated Review Group, Hematopoiesis Study Section.

Date: June 5–6, 2008.

Time: 8 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Manjit Hanspal, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7804, Bethesda, MD 20892, 301–435–1195, *hanspalm@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience, Integrated Review Group, Neurogenesis and Cell Fate Study Section.

Date: June 5–6, 2008

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.

Contact Person: Lawrence Baizer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7850, Bethesda, MD 20892, (301) 435–1257, *baizerl@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group, Psychosocial Risk and Disease Prevention Study Section.

Date: June 5–6, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Washington, DC., 1515 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: Martha Faraday, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, 301–435–3575, *faradaym@csr.nih.gov.*

Name of Committee: Health of the Population Integrated Review Group, Epidemiology of Cancer Study Section.

Date: June 5–6, 2008.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Loews Annapolis Hotel, 126 West Street, Annapolis, MD 21401.

Contact Person: Denise Wiesch, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, (301) 435–0684. *wieschd@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 4, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–7691 Filed 4–10–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2008–0221]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0006

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) and Analysis to the Office of Management and Budget (OMB) requesting an extension of its approval for the following collection of information: 1625–0006, Shipping Articles. Before submitting this ICR to OMB, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before June 10, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2008–0221] 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 delivery: Room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue SE., Washington, D.C. 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.

The DMF maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://www.regulations.gov.*

A copy of the complete ICR is available through this docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from Commandant (CG–611), U.S. Coast Guard Headquarters, (Attn: Mr. Arthur Requina), 2100 2nd Street SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request For Comments

The Coast Guard invites comments on whether this information collection

request should be granted based on it being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://www.regulations.gov*. They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2008–0221], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this notice as being available in the docket. Enter the docket number for this notice [USCG–2008–0221] in the Search box, and click ''Go >>.'' You may also visit the DMF in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or by visiting *http://DocketsInfo.dot.gov*.

Information Collection Request

Title: Shipping Articles (CG–705A).

OMB Control Number: 1625–0006.

Summary: Sections 10302 and 10502 of 46 U.S.C. and 46 CFR 14.201 mandate that the owner, charterer, managing operator, master, or individual in charge shall make a shipping agreement in writing with each seaman before commencing employment. Section 14.313 of 46 CFR mandates that shipping companies maintain the shipping articles and that after 3 years deliver them to Coast Guard custody for storage at the Federal Records Center in Suitland, MD. In addition, shipping companies must provide copies of shipping articles to the Coast Guard upon request.

Need: The information collected provides verification, identification, location, and employment records of U.S. merchant seamen to the following: (1) Federal, state, and local law enforcement agencies for use in criminal or civil law enforcement purposes; (2) shipping companies; (3) labor unions; (4) seaman's authorized representatives; (5) seaman's next of kin; and (6) whenever the disclosure of such information would be in the best interest of the seaman's family.

Respondents: Business or other for-profit companies.

Frequency: Voyage.

Burden Estimate: The estimated burden remains 18,000 hours a year.

Dated: April 3, 2008.

D. T. Glenn,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E8–7673 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2008–0222]

Information Collection Request to Office of Management and Budget; OMB Control Numbers: 1625–0067 and 1625–0068

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit Information Collection Requests (ICRs) and Analyses to the Office of Management and Budget (OMB) requesting an extension of their approval for the following collections of information: (1) 1625–0067, Claims Under the Oil Pollution Act of 1990 and (2) 1625–0068, State Access to the Oil Spill Liability Trust Fund for Removal Costs Under the Oil Pollution Act of 1990. Before submitting these ICRs to OMB, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before June 10, 2008.

ADDRESSES: To avoid duplicate submissions to the docket [USCG–2008–0222], please use only one of the following means:

(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 delivery: To DMF between the hours of 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.

The DMF maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://www.regulations.gov.*

Copies of the complete ICR is available through this docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from Commandant (CG–611), U.S. Coast Guard Headquarters, (Attn: Mr. Arthur Requina), 2100 2nd Street, SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket

Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request For Comments

The Coast Guard invites comments on whether this information collection request should be granted based on it being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of information subject to the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include the docket number [USCG–2008–0222], indicate the specific section of the document to which each comment applies, providing a reason for each comment. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: Go to *http://www.regulations.gov* to view documents mentioned in this notice as being available in the docket. Enter the docket number [USCG–2008–0222] in the Search box, and click, ''Go>>.'' You may also visit the DMF in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or by visiting *http://DocketsInfo.dot.gov.*

Information Collection Request

1. *Title:* Claims Under the Oil Pollution Act of 1990.

OMB Control Number: 1625–0067.

Summary: The Coast Guard will use the information collected under this information collection request to: (1) Determine whether oil-spill-related claims submitted to the Oil Spill Liability Trust Fund under section 1013 of the Oil Pollution Act of 1990 (33 U.S.C. 2713) are compensable and; (2) if they are, to ensure proper compensation for the claimant.

Need: If the respondents do not comply with this reporting requirement in 33 CFR Part 136, they will not be able to document uncompensated removal costs and damages resulting from the discharge, substantial threat of discharge of oil from a vessel or facility into or upon the navigable waters, adjoining shorelines, or the exclusive economic zone. The claimant bears the burden of providing all evidence, information, and documentation deemed necessary by the Director of the National Pollution Funds Center to support the claim.

Respondents: Claimants and responsible parties of oil spills.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 14,800 hours to 8,267 hours per year.

2. *Title:* State Access to the Oil Spill Liability Trust Fund for Removal Costs Under the Oil Pollution Act of 1990.

OMB Control Number: 1625–0068

Summary: The Coast Guard will use information provided by the State to the Coast Guard National Pollution Funds Center to determine whether those expenditures regarding the Oil Spill Liability Trust Fund are compensable under 33 U.S.C. 2713 and, if they are, to ensure payment of the correct amount of funding from the Fund.

Need: If the respondents do not comply with this reporting requirement in 33 CFR Part 133, they will not be able to document uncompensated removal costs or damages resulting from the discharge, or substantial threat of discharge, of oil from a vessel or facility into or upon the navigable waters, adjoining shorelines, or the exclusive economic zone. Additionally, they will not be able to demonstrate or show that they qualify for claims compensation under the Oil Pollution Act of 1990 (OPA). Currently, the States work with the Federal On-Scene Coordinator and receive compensation through reimbursable agreements.

Respondents: Anyone claiming an OPA damage or removal cost as a result of an OPA incident.

Frequency: On occasion.

Burden Estimate: The estimated burden remains 3 hours per year.

Dated: April 3, 2008.

D. T. Glenn,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E8–7674 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket Nos. TSA–2006–24191; Coast Guard–2006–24196]

Transportation Worker Identification Credential (TWIC); Enrollment Dates for the Ports of Portsmouth, NH; Chattanooga, TN; and San Juan, PR

AGENCY: Transportation Security Administration; United States Coast Guard; DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security (DHS) through the Transportation Security Administration (TSA) issues this notice of the dates for the beginning of the initial enrollment for the Transportation Worker Identification Credential (TWIC) for the Ports of Portsmouth, NH; Chattanooga, TN; and San Juan, PR.

DATES: TWIC enrollment begins in Portsmouth and Chattanooga on April 23, 2008; and in San Juan on April 30, 2008.

ADDRESSES: You may view published documents and comments concerning the TWIC Final Rule, identified by the docket numbers of this notice, using any one of the following methods.

(1) Searching the Federal Docket Management System (FDMS) Web page at *http://www.regulations.gov*;

(2) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html*; or

(3) Visiting TSA's Security Regulations web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

FOR FURTHER INFORMATION CONTACT: James Orgill, TSA–19, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220. Transportation Threat Assessment and Credentialing (TTAC), TWIC Program, (571) 227–4545; e-mail: *credentialing@dhs.gov*.

Background

The Department of Homeland Security (DHS), through the United States Coast Guard and the Transportation Security Administration (TSA), issued a joint final rule (72 FR 3492; January 25, 2007) pursuant to the Maritime Transportation Security Act (MTSA), Public Law 107–295, 116 Stat. 2064 (November 25, 2002), and the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law 109–347 (October 13, 2006). This rule requires all credentialed merchant mariners and individuals with unescorted access to secure areas of a regulated facility or vessel to obtain a TWIC. In this final rule, on page 3510, TSA and Coast Guard stated that a phased enrollment approach based upon risk assessment and cost/benefit would be used to implement the program nationwide, and that TSA would publish a notice in the **Federal Register** indicating when enrollment at a specific location will begin and when it is expected to terminate.

This notice provides the start date for TWIC initial enrollment at the Ports of Portsmouth, NH and Chattanooga, TN on April 23, 2008; and San Juan, PR on April 30, 2008. The Coast Guard will publish a separate notice in the **Federal Register** indicating when facilities within the Captain of the Port Zone Northern New England, including those in the Port of Portsmouth; Captain of the Port Zone Ohio Valley, including those in the Port of Chattanooga; and Captain of the Port Zone San Juan, including those in the Port of San Juan must comply with the portions of the final rule requiring TWIC to be used as an access control measure. That notice will be published at least 90 days before compliance is required.

To obtain information on the pre-enrollment and enrollment process, and enrollment locations, visit TSA's TWIC web site at *http://www.tsa.gov/twic*.

Issued in Arlington, Virginia, on April 7, 2008.

Rex Lovelady,

Program Manager, TWIC, Office of Transportation Threat Assessment and Credentialing, Transportation Security Administration.

[FR Doc. E8–7646 Filed 4–10–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–526, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form I–526, Immigrant Petition by Alien Entrepreneur; OMB Control No. 1615–0026.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until June 10, 2008.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via e-mail at rfs.regs@dhs.gov. When submitting comments by e-mail, please add the OMB Control Number 1615–0026 in the subject box.

During this 60-day period USCIS will be evaluating whether to revise the Form I–526. Should USCIS decide to revise the Form I–526 it will advise the public when it publishes the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30-days to comment on any revisions to the Form I–526.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

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

Overview of This Information Collection

(1) Type of Information Collection: Extension of an existing information collection.

(2) Title of the Form/Collection: Immigrant Petition by Alien Entrepreneur.

(3) Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection: Form I–526. U.S. Citizenship and Immigration Services.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals and households. This form is used by the USCIS to determine if an alien can enter the U.S. to engage in commercial enterprise.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 1,368 responses at an1 hour and 15 minutes (1.25 hours) per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 1,710 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit: http://www.regulations.gov/search/index.jsp.

We may also be contacted at: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529, telephone number 202–272–8377.

Dated: April 8, 2008.

Stephen Tarragon,

Acting Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. E8–7790 Filed 4–10–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–765, Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form I–765, Application for Employment Authorization; OMB Control No. 1615–0040.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until June 10, 2008.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail, add the OMB Control Number 1615–0040 in the subject box.

During this 60-day period USCIS will be evaluating whether to revise the Form I–765. Should USCIS decide to revise the Form I–765, it will advise the public when it publishes the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form I–765.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

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

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for Employment Authorization.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–765. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and households. The information collected on this form is used by the USCIS to determine eligibility for the issuance of the employment document.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,885,296 responses at 3 hours and 25 minutes (3.42 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 6,447,712 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit: *http://www.regulations.gov/search/index.jsp.*

We may also be contacted at: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529, telephone number 202–272–8377.

Dated: April 8, 2008.

Stephen Tarragon,

Acting Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. E8–7791 Filed 4–10–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

[Docket No. USCBP–2006–0037]

Announcement of Program Pilot: International Traveler (IRT) Registered

AGENCY: Customs and Border Protection; Department of Homeland Security.

ACTION: General notice; request for comments.

SUMMARY: This notice announces a pilot international registered traveler program, referred to as International Registered Traveler (IRT) that will be operated by Customs and Border Protection (CBP) to allow for the expedited clearance of pre-approved low-risk air travelers into the United States. This pilot will initially be conducted at the John F. Kennedy International Airport, Jamaica, New York; the George Bush Intercontinental Airport, Houston, Texas; and the Washington Dulles International Airport, Sterling, Virginia, and may expand to other locations as announced. This notice invites public comments concerning any aspect of the pilot of this international registered traveler program, informs interested members of the public of the eligibility requirements for voluntary participation in the pilot, and describes the basis on which CBP will select participants for the pilot.

DATES: Applications to be initial participants in the pilot should be submitted May 12, 2008. The pilot will commence June 10, 2008. Applications to participate in the pilot will be accepted throughout the duration of the pilot. The pilot is expected to continue for at least six months. The time frame of the pilot will vary, depending on the progress of an evaluation of the pilot that will be conducted by CBP.

ADDRESSES: You may submit comments, identified by ''USCBP–2006–0037,'' by *one* of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Border Security Regulations Branch, Regulations and Rulings, Office of International Trade, Customs and Border Protection, 1300 Pennsylvania

Avenue, NW. (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name, document title, and docket number (USCBP–2006–0037) for this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.* Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

Applications for the IRT pilot are available through the Global On-Line Enrollment System (GOES) at *www.cbp.gov.* Applications must be completed and submitted electronically.

FOR FURTHER INFORMATION CONTACT: Fiorella Michelucci, Office of Field Operations, (202) 344–2564 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Customs and Border Protection (CBP) is announcing in this notice that it will be conducting an international registered traveler pilot for a new passenger processing system called International Registered Traveler (IRT). CBP will be evaluating the IRT program during this pilot with the ultimate goal to implement a single, integrated passenger processing system that will expedite the movement of low-risk, frequent international air travelers by providing an expedited inspection process for pre-approved, pre-screened ''trusted'' travelers. By implementing this initiative, CBP would facilitate the movement of people more efficiently, thereby accomplishing CBP's strategic goal of facilitating legitimate trade and travel while securing the homeland.

The Commissioner of CBP is delegated authority in 19 CFR 101.9 to conduct voluntary test/pilot programs to evaluate the effectiveness of new technology or operational procedures regarding the processing of passengers, vessels or merchandise. Title 8 U.S.C., Section 1365b requires that the Department of Homeland Security (DHS) operate a biometric entry and exit system and that it integrate registered traveler programs into this system. This provision also requires, in subsection (k)(3), that the Secretary establish an international registered traveler program that incorporates available technologies, such as biometrics and e-passports, and security threat assessments to expedite the screening and processing of international travelers, including United States Citizens and lawful permanent residents who enter and exit the United States.[1] Subsection (k)(3)(B) authorizes the Secretary to impose a fee for the program and to modify such fee ''from time to time.'' The provision requires that the fee may not exceed the aggregate costs associated with the program and shall be credited to DHS to carry out the program.

DHS is coordinating multiple tests of electronic identity verification systems, including the US–VISIT program and the Registered Traveler program of the Transportation Security Administration (TSA). The results of these various programs will be considered in coordination with those other components and agencies within DHS.

I. Description of IRT Pilot Program

Overview

The IRT pilot project will allow pilot participants expedited entry into the United States at any of its three locations, John F. Kennedy International Airport, Jamaica, New York (JFK); the George Bush Intercontinental Airport, Houston, Texas (IAH); and the Washington Dulles International Airport, Sterling, Virginia (IAD), and a limited number of future airports as announced in further **Federal Register** notices, by using automated kiosks located in the Federal Inspection Services (FIS) area of each airport. IRT uses fingerprint biometrics technology to verify a participant's identity and confirm his or her status as a participant.

After arriving at the FIS area, the participant will proceed directly to the IRT kiosk. A sticker affixed to the participant's passport at the time of acceptance in IRT will provide visual identification that the individual can be referred to the kiosk. IRT participants need not wait in the regular passport control primary inspection lines.

Operations

After arriving at the kiosk, the participant will activate the system by inserting into the document reader either a machine-readable passport or a machine-readable U.S. permanent resident card. On-screen instructions will guide the participant to provide fingerprints electronically. These fingerprints will be compared with the fingerprint biometrics on file to validate identity and confirm that the individual is a member of the program. Participants will also be prompted to look at the camera for a digital photograph.

When the procedures at the kiosk have been successfully completed, which will also involve responding to several customs declaration questions by use of a touch-screen, the participant will be issued a transaction receipt. This receipt must be provided along with the passport or permanent resident card to the CBP Officer at the exit control area who will examine and inspect these documents. CBP Officers stationed in booths next to the kiosk lanes will also oversee activities at the kiosk.

Declarations

When using the IRT kiosks, IRT participants will be required to declare all articles being brought into the U.S. pursuant to 19 CFR 148.11.

If IRT participants declare any of the following, the kiosk will redirect the user to the head of the line at the nearest open passport control, primary inspection station:

(a) Commercial merchandise or commercial samples, or items that exceed the applicable personal exemption amount;

(b) More than $10,000 in currency or other monetary instruments (checks, money orders, etc.), or foreign equivalent in any form; or

(c) Restricted/prohibited goods, such as agricultural products, firearms, mace, pepper spray, endangered animals, birds, narcotics, fireworks, Cuban goods, and plants.

Moreover, IRT participants may be subject to further examination and inspection as determined by CBP Officers at any time during the arrival process.

II. Pilot Program Eligibility Criteria

Participation in the IRT pilot is voluntary. Only U.S. citizens, U.S. nationals, and U.S. lawful permanent residents (LPRs) will be considered for participation at the launch of this pilot. CBP is working with other countries to eventually recognize comparable programs operated by these countries so that non-U.S. citizens and other foreign nationals that are participants in those programs will be eligible for participation in IRT. As these agreements on mutual recognition are

[1] CBP has other programs that expedite the travel of previously screened and known travelers across the borders of the United States (*i.e.*, Free and Secure Trade (FAST), Secure Electronic Network for Travelers Rapid Inspection (SENTRI), and NEXUS). The agency also calls these programs ''trusted traveler programs.''

finalized, CBP will expand its eligibility criteria, and will announce any expansions of these criteria during the pilot program by publication in the **Federal Register**.

No person, however, will be eligible for this pilot if he or she loses LPR status or is inadmissible to the United States under the immigration laws, if he or she has ever been convicted of a criminal offense, or if he or she has ever been found in violation of the customs or immigration laws of the United States, or of any criminal law. Additionally, no person will be eligible if CBP or DHS determines that he or she presents a potential risk for terrorism, criminality or smuggling, or if CBP or DHS can not sufficiently determine that an applicant meets the above criteria for participation in the pilot.

Children 14 years of age and older, but under the age of 18, must have the consent of a parent or legal guardian to participate in the pilot. Children under the age of 14 are not eligible to participate in the pilot.

All participants must possess a Machine Readable Passport or Permanent Resident Card (if applicable). Machine-readable passports include two optical-character, typeface lines at the bottom of the biographic page of the passport that help to quickly read the biographical information on the passport.

III. Pilot Program Application and Selection Process

The application for the IRT pilot is available on-line through the Global On-Line Enrollment System (GOES) at *www.cbp.gov.* The application is to be completed and submitted electronically through GOES. Other application options, such as paper applications or the opportunity to provide enrollment data via private sector entities will be considered in future announcements.

The on-line application for IRT collects information similar to that collected by applications for CBP's other trusted traveler programs (*e.g.*, NEXUS, Secure Electronic Network for Travelers Rapid Inspection (SENTRI) and Free and Secure Trade (FAST)). The information collected through the on-line application is deposited into the Global Enrollment System (GES), as the system of record for CBP trusted traveler programs. The personal information provided by the applicants, including the fingerprint biometrics taken at the time of the personal interview, may be shared with other government and law enforcement agencies in accordance with applicable laws and regulations. The personal information that is collected through GOES is maintained in a Privacy Act system of records (GES) that was last published in the **Federal Register** on April 21, 2006 (71 FR 20708). CBP has also published two Privacy Impact Assessments that cover this pilot on the DHS Privacy Office Web site, *www.dhs.gov/privacy* [GES, GOES]. In addition, an update addressing on-line functionality of the enrollment process was posted to the DHS Privacy Office Web site on November 1, 2006. Applicant biometrics (fingerprints, photographs) are stored in the DHS Automated Biometric Identification System (IDENT). The IDENT Privacy Act System of Records notice was last published on June 5, 2007 (72 FR 31080).

A non-refundable fee in the amount of $100 will be charged to each applicant at the time of application submission to the pilot program. The $100 fee paid by applicants to the pilot will cover the benefits of participation for the duration of the pilot. The fee is to be paid to CBP at the time of application through the Federal Government's on-line payment system, Pay.gov. Pay.gov is a system by which parties can make secure electronic payments to many Federal Government agencies. Should the IRT program become permanent, other payment alternatives may be made available.

There are three steps to the application process before an individual can become a participant in the pilot program. In the first step, applicants must complete and submit the pilot program application on-line through GOES and submit payment of the $100 fee through Pay.gov. Applicants will be provided with a GOES on-line account in order to assist them and permit CBP to communicate with the applicant during the application process. In the second step, CBP Officers will review the applicant's information for processing to ensure that the applicant is in compliance with United States customs and immigration laws and regulations. Criminal and antiterrorism government databases will also be checked. Foreign government databases and sources may also be used as permitted by relevant U.S. laws and regulations, and to the extent applicable, arrangements with foreign governments.

Applicants meeting the eligibility criteria will be notified by e-mail to an e-mail address provided at the time of the application and a message in their GOES account that they can schedule an interview at an Enrollment Center using the GOES link to the on-line scheduling feature. The applicant will choose an Enrollment Center at JFK, Houston or Dulles Airport to initiate the third phase of the application process. As operation of the program expands, CBP will announce future enrollment locations. Contact information for the three current Enrollment Centers (also available at *www.cbp.gov*), is as follows:

John F. Kennedy International Airport: U.S. Customs and Border Protection, JFK International Airport, Terminal 4, Second Floor, Jamaica, NY 11430, Telephone: (718) 553–1237, Fax: (718) 553–1783.

George Bush Intercontinental Airport: U.S. Customs and Border Protection, Houston Intercontinental Airport, 3870 North Terminal Road, Terminal E, Houston, TX 77032, Telephone: (281) 230–4672, Fax: (281) 230–4676.

Washington Dulles International Airport: U.S. Customs and Border Protection, Deferred Inspection Unit/ Enrollment Center, Washington Dulles International Airport, 22685 Holiday Park Drive, Suite 15, Sterling, VA 20166, Telephone: (703) 661–7100, Fax: (703) 661–8394.

At the Enrollment Center, CBP officers will review the provided information and conduct an interview of the applicant. Applicants must bring to the interview originals of the identification documentation they specified in their application to the Enrollment Center. Usually, this will be a United States Passport or Permanent Resident card. During this process, CBP officers will perform the following procedures: verify identity and proof of U.S. citizenship, U.S. national or U.S. permanent resident status, as applicable; confirm the validity of travel documents; confirm the candidate meets eligibility requirements for membership; electronically capture a full set of 10 fingerprints to enroll the applicant; and conduct various checks, including a check for criminal records in law enforcement databases (which involves submission of the fingerprints to the Federal Bureau of Investigation (FBI)). Finally, CBP officers will also take a digital photograph of each applicant for the IRT membership database. Although an application can be made for a child (14 years of age or older) to travel with a non-custodial adult, provided that the required documentation is submitted, a child appearing at the Enrollment Center for processing must be accompanied by at least one custodial adult (parent or guardian). At the interview, the CBP officer may request appropriate documentary evidence of parental custody from the parent or guardian seeking to enroll the child in the IRT pilot.

After becoming a member of IRT, each participant will be screened against the

relevant criminal and anti-terrorism government databases each time the IRT kiosk is used. Additionally, it is important to note that CBP will continue to conduct periodic checks for all enrolled members during the entire period of the pilot (and/or the permanent version of the program, at the point it becomes permanent), to ensure that CBP can quickly take action should new information be made available that would disqualify the participant.

The required immigration status and citizenship of participants must be valid at all times. Participants must possess required immigration and identity documents at all times during their travel, including at the time of arrival to participating airports.

IV. The Fee

In order to reimburse CBP for the application processing costs associated with this program, including the submission of applicant fingerprints to the FBI, Congress has, as noted, authorized the Secretary (of the Department of Homeland Security) to charge a fee for participation in the program. See 8 U.S.C. 1365b(k)(3)(B). On receipt of the fee, CBP will review the application and determine whether the applicant is eligible to participate in this voluntary program. Applicants who are enrolled as IRT participants will receive the benefit of expedited clearance through airports at which CBP is testing, or later establishes the IRT program.

1. Alternatives to Charging a Fee

The only alternative to charging a fee to cover CBP's application processing costs associated with the IRT program would be for the United States Government, and specifically CBP, to pay for the costs out of its general appropriated funds, without reimbursement. However, this course of action would be contrary to stated Congressional and Administration policy that a fee should be charged when a specific benefit is rendered. 31 U.S.C. 9701; Office of Management and Budget (OMB) Circular A–25, User Charges (Revised), section 6, 58 FR 38142 (July 15, 1993). Therefore, CBP has determined that charging a fee for the subject service is the only viable alternative.

2. Amount of the Fee

CBP has determined that $100 is the amount necessary to recover the costs incurred by CBP for the processing of the application, including the submission of the applicant's fingerprints to the FBI, and other administrative costs of the program.

However, the program costs covered by this fee do not include inspection costs incurred by CBP each time an IRT participant enters the United States. Such costs are covered by the various inspection user fees already charged by CBP. See 8 U.S.C. 1356(d); 19 U.S.C. 58c(a)(5)(B).

The application processing costs covered by the fee are provided as follows:

UNIT COST OF PROCESSING AN APPLICATION FOR IRT (5 YEAR CYCLE)

Unit Cost FBI Fingerprints	$17.25
Unit Cost of Vetting An Applicant	38.04
Unit Cost of Issuing Sticker	1.00
Unit Cost of Establishing, Operating, and Maintaining An Enrollment Center	32.53
Unit Cost of GES Servers, Storage, Enhancements and Upgrades	11.14
Grand Total Unit Cost of Processing An IRT Application	99.96

Notes for Table:
1. Position costs for application processing is calculated by multiplying .5 by the hourly rate of a Customs and Border Protection Officer (CBPO), (Total position cost = $144,000, including training, equipment and other costs). A 3.16% pay raise and benefits weighted average rate was applied.
2. A 3% inflation rate adjustment was applied for all costs.
3. GES is the acronym for CBP's Global Enrollment System. Application for the IRT pilot program will occur in the Global On-Line Enrollment System (GOES), which is part of GES. The GES is housed in the CBP Secure network.
Other Assumptions:
CBPOs working on the enrollment centers will perform other functions when no application processing-related work exists.
Unit cost is based on regular hours. Overtime is excluded.
Total enrollees = 250,000 (This total would be reached in a five-year cycle).

As can be seen in the above table, the total calculated costs to CBP, per applicant, equals the amount of $99.96. To simplify accounting tasks for both applicants and CBP, and to allow for the possibility of small variations in the estimated costs compared to the actual costs, CBP is setting the cost per applicant at $100. This fee will be non-refundable.

V. Redress

If an applicant is denied participation in the IRT pilot, a notice will be sent to his or her GOES account advising him or her of the denial, with instructions on how to proceed if the applicant wishes to seek additional information.

Even though an applicant has been accepted in the pilot program, he or she may later be suspended or removed from the pilot if CBP, at its sole discretion, determines that a participant has engaged in any misconduct under the IRT pilot; if the participant provided false information during the application and/or application process; if the participant fails to follow the terms and conditions of this notice and/or the requirements of the pilot; if the participant is convicted of a crime or otherwise no longer meets the qualification standards of the program; or if CBP determines that such action is necessary and appropriate. CBP will notify the participant of his or her suspension or removal from the pilot in writing, which will be effective immediately.

The applicant has three channels for redress: (a) Directly with the enrollment center; (b) DHS Travelers Redress Inquiry Program (DHS TRIP); and c) the CBP Trusted Traveler Ombudsman.

(a) Enrollment Center

A participant may contest his or her suspension or removal, in writing, to the Enrollment Center where the participant's interview was conducted. The enrollment center addresses are available at *www.cbp.gov* and are provided in this document. The participant's letter must be received by CBP within thirty (30) calendar days of the date provided as the date of suspension or removal. The applicant should write on the envelope ''Redress Request RE: IRT.'' The letter should address the facts or conduct that resulted in the suspension or removal and why the participant believes the

reason for the suspension or removal is invalid.

(b) DHS TRIP

The individual may choose to initiate the redress process through the existing DHS TRIP process. DHS TRIP is a Web-based customer service initiative developed as a voluntary program to provide a one-stop mechanism for individuals to request redress. DHS TRIP provides traveler redress intake and processing support while working with relevant DHS components to review and respond to requests for redress.

An individual seeking redress may obtain the necessary forms and information to initiate the process on the DHS TRIP Web site at *http://www.dhs.gov/trip* or by contacting DHS TRIP by mail. DHS TRIP will review all the documentation provided by the individual and share the redress request with any necessary agencies (including appropriate Federal law enforcement or intelligence agencies, if necessary) for resolution. DHS TRIP will correct any erroneous information and will inform the individual when the redress process has been completed.

(c) Ombudsman

If participants feel the denial or revocation was based upon inaccurate information, they may contact the CBP Enrollment Center where their interview was conducted, or they may write to the CBP Trusted Traveler Ombudsman at: U.S. Customs and Border Protection, 300 Interstate Corporate Center, Suite 303, Williston, VT 05495, Attention: CBP Ombudsman.

Contact with the Enrollment Centers, DHS TRIP or the Trusted Traveler Ombudsman should contain supporting information that can demonstrate that the denial or revocation was based on inaccurate information. CBP often relies on data from other agencies (*e.g.*, Immigration and Customs Enforcement, FBI, Drug Enforcement Administration) and the denial or revocation may have been based upon those records. In order to view records that may be on file with another agency, the applicant will need to contact those agencies directly. The provisions allowing participants to seek redress concerning their suspension or removal from the program pilot do not create or confer any legal right, privilege or benefit, but is wholly discretionary on the part of CBP.

None of these three options for redress will result in either the confirmation or denial of whether an individual is on the watch list, because this information is derived from classified and sensitive law enforcement and intelligence information. This policy protects the operational counterterrorism and intelligence collection objectives of the Federal Government, as well as the personal safety of those involved in counterterrorism investigations.

VI. FOIA

Any participant who has reason to believe his or her suspension or removal is based upon records maintained by CBP and wishes to view those records, should file a Freedom of Information Act (FOIA) request with the FOIA Division, Office of International Trade, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229. Applicants should not use this address to seek redress or review of their application for this pilot. This address should only be used to obtain copies of the information CBP has on file, subject to applicable FOIA exemptions. If the record sought is owned by another State or local entity, the applicant must contact that entity directly for information.

VII. Pilot Evaluation Criteria

CBP will review all public comments received concerning any aspect of the pilot program or procedures, finalize procedures in light of those comments and CBP will evaluate the program by forming problem-solving teams and establishing baseline measures and evaluation methods and criteria. Evaluation of the pilot will begin upon the start of the pilot. The pilot is expected to continue for a minimum of six months. A review will be conducted at the end of a three-month period and at the six-month period, to include evaluation of the following: The number of participants; the number of instances and length of time that kiosks were out of service; the average length of time for a person to successfully complete the kiosk process; the number of instances that approved user could not successfully complete the kiosk process; the average length of time for CBP to process applications; the percentage of denied applications; and the percentage of kiosk usage. This time frame is subject to change, however, depending on the progress of the ongoing evaluation. The pilot program may be extended, modified, or terminated depending on the results of the evaluation.

Dated: April 7, 2008.

W. Ralph Basham,

Commissioner, Customs and Border Protection.

[FR Doc. E8–7643 Filed 4–10–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Modification and Extension of the Post-Entry Amendment Processing Test; Correction

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: General notice; correction.

SUMMARY: On August 21, 2007, U.S. Customs and Border Protection (CBP) published a general notice in the **Federal Register** announcing a modification of the CBP post-entry amendment processing test and the discontinuance of the supplemental information letter (SIL) policy. This document corrects the previously published notice concerning its statement that timely filed individual amendment letters (now known as single post entry amendments (PEAs) or single PEAs) will be treated as protests under 19 U.S.C. 1514 where the entry summaries covered by the PEAs were liquidated without consideration of the requested amendment. In such circumstances, CBP may reliquidate the entry summaries under 19 U.S.C. 1501 based on the PEAs or the importer may file a protest in accordance with 19 U.S.C. 1514. CBP will not treat single PEAs filed before liquidation as protests.

DATES: This correction of the previously published test modification as described in this document is effective on April 11, 2008.

ADDRESSES: Written comments regarding this correction and the previously published test modification referenced above should be addressed to Customs and Border Protection, Entry, Summary and Drawback Branch, Office of International Trade, ATTN: Post-Entry amendment, 1300 Pennsylvania Avenue, NW., Room (L–4), Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Questions pertaining to any aspect of this notice, or the previously published notice referenced above, should be directed to Jennifer Dolan, Customs and Border Protection, Entry, Summary and Drawback Branch, Office of International Trade, at (202) 863–6538 or via e-mail at *Jennifer.Dolan@dhs.gov.*

SUPPLEMENTARY INFORMATION: On August 21, 2007, CBP published a general notice in the **Federal Register** (72 FR 46654) announcing a modification of the PEA test. The PEA test procedure allows test participants (importers) to amend entry summaries (not informal entries) prior to liquidation by filing with CBP either a single PEA upon discovery of certain kinds of errors or a quarterly tracking report covering certain other errors that occurred during the quarter. The test modification, which became effective on September 20, 2007, concerned the timeliness of filing single PEAs. Prior to the modification, the test participant was required to file a single PEA promptly after discovery of a covered error and prior to the liquidation of the subject entry summary. The test procedure as modified requires that a single PEA be filed at least 20 days before the scheduled liquidation date of the subject entry summary.

The modification notice explained that an untimely filed single PEA would be rejected and a timely filed single PEA would be treated by CBP as a protest under 19 U.S.C. 1514 in any instance where the entry summaries are not unset or processed by the scheduled liquidation date and liquidation therefore occurs without benefit of the requested amendment.

Correction

Under 19 U.S.C. 1514, a protest must be filed within a certain period after, not before, certain specified CBP actions, one of which is liquidation of the entry summary. To treat a single PEA filed prior to the liquidation, as described above, as a protest of the liquidation is contrary to the terms of the statute. Therefore, this notice specifies that in the instance of such liquidation, performed without consideration of the PEA, CBP may reliquidate the entry summary voluntarily under 19 U.S.C. 1501 or the importer may file a protest under 19 U.S.C. 1514.

Dated: April 7, 2008.

Daniel Baldwin,

Assistant Commissioner, Office of International Trade.

[FR Doc. E8–7695 Filed 4–10–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5186–N–15]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

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

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988, court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: April 3, 2008.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E8–7415 Filed 4–10–08; 8:45 am]

BILLING CODE 4210–67–M

DEPARTMENT OF THE INTERIOR

UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

Central Utah Project Completion Act

AGENCIES: Department of the Interior. Office of the Assistant Secretary—Water and Science (Interior); and the Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission).

ACTION: Notice of Availability, Final Environmental Impact Statement (FEIS), Lower Duchesne River Wetlands Mitigation Project (LDWP), Duchesne and Uintah Counties, Utah.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), as amended, Interior and the Mitigation Commission (Joint Lead Agencies), have issued a Final Environmental Impact Statement (FEIS) for the Lower Duchesne River Wetlands Mitigation Project in Duchesne and Uintah Counties, Utah. The FEIS addresses potential impacts related to construction and operation of features proposed for the project and incorporates responses to public comments received on the Draft EIS.

The FEIS is intended to satisfy disclosure requirements of NEPA and will serve as the NEPA compliance document for contracts, agreements and permits that would be required for construction and operation of the project.

FOR FURTHER INFORMATION CONTACT: Additional information on matters related to this notice can be obtained from Mr. Ralph G. Swanson at (801) 379–1254, or *rswanson@uc.usbr.gov.* Copies of the FEIS, and supporting resource technical reports, are available upon request.

Copies of the FEIS are also available for inspection at:

Utah Reclamation Mitigation and Conservation Commission, 230 South 500 East, Suite 230, Salt Lake City, Utah 84102;

Department of the Interior, Natural Resource Library, Serials Branch, 18th and C Streets, NW., Washington, DC 20240;

Headquarters, Ute Indian Tribe of the Uintah and Ouray Agency, 988 South 7500 East, Ft. Duchesne, Utah 84026;

Bureau of Indian Affairs, P.O. Box 130, Ft. Duchesne, Utah 84026;

Duchesne County Library, 70 East Lagoon, Roosevelt, Utah 84066;

and on the Mitigation Commission Web site at: *www.mitigationcommission.com.*

SUPPLEMENTARY INFORMATION:

Background—The LDWP is proposed to fulfill certain environmental mitigation commitments of the Bonneville Unit of the Central Utah Project. The Strawberry Aqueduct and Collection System (SACS) is a key component of the Bonneville Unit, collecting water from the Upper Duchesne River and its tributaries and storing it in Strawberry Reservoir for delivery westward to the Wasatch Front in Utah. As a result, wetlands and wildlife habitats along the Duchesne River have been adversely impacted. Substantial wetland impacts occurred on the Uintah and Ouray Reservation lands of the Ute Indian Tribe. The Proposed Action would create, restore, and otherwise enhance riparian wetland habitats on reservation

lands of the Ute Indian Tribe along the Duchesne River in Utah as partial mitigation for these Bonneville Unit impacts. The LDWP has been planned in conjunction with the Ute Indian Tribe and is intended to fulfill a long-standing commitment to mitigate for impacts to Ute Indian tribal wetland-wildlife resources and to provide additional wetland/wildlife benefits to the Ute Indian Tribe.

Notice of Intent to initiate public scoping and prepare a Draft EIS was published in the **Federal Register** on April 25, 2001 (66 FR 20827). Scoping was accomplished by means of three public meetings convened in Ft. Duchesne, Roosevelt and Salt Lake City, Utah in May 2003. The DEIS was filed with the EPA by the Joint Lead Agencies on November 17, 2003. Notice of Availability of the DEIS was announced in the **Federal Register** on November 24, 2003 (68 FR 65943). Three public meetings were held in Ft. Duchesne, Roosevelt and Salt Lake City, Utah in December 2003, to receive public comment on the DEIS. Comments received during the public comment period from November 17, 2003 to February 17, 2004, were considered during preparation of the FEIS.

Publication of a Record of Decision for the LDWP will occur no sooner than 30 days from the date of this notice.

Proposed Action—Approximately 4,807 acres of land composed of 3,215 acres of Ute Indian Tribal trust lands, and 1,592 acres of fee lands to be acquired by the Federal Government, would be acquired and/or developed into cohesive wetlands management units. A portion of the water currently managed by the Bureau of Indian Affairs for the Ute Indian Tribe under the existing Uinta Indian Irrigation Project would be utilized, along with water that may be acquired with fee land acquisitions, to create, restore and enhance wetlands throughout the project area. Lands acquired in fee title (except lands acquired by eminent domain) would be transferred to the Ute Indian Tribe. All project lands (dedicated tribal and acquired lands) would be managed for project purposes by the Ute Indian Tribe under management agreements with the Joint Lead Agencies to achieve the prescribed wetlands-associated fish and wildlife benefits, and for other wetland/wildlife-related tribal benefits.

Alternatives—Two action alternatives were developed and evaluated. The alternatives included in the FEIS are similar to the Proposed Action, differing only in the acreage amounts and locations.

No Action—No lands or waters would be acquired or managed for wetland habitat improvements or tribal benefits. This Central Utah Project, Bonneville Unit mitigation commitment to the Ute Indian Tribe would remain unfulfilled. The Commission would undertake additional planning to develop an acceptable alternative means to complete this mitigation commitment.

Reed R. Murray,

Program Director, Department of the Interior.

Michael C. Weland,

Executive Director, Utah Reclamation Mitigation and Conservation Commission.

[FR Doc. E8–7810 Filed 4–10–08; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Sent to the Office of Management and Budget (OMB) for Approval; OMB Control No. 1018–0123; International Conservation Grant Programs

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. This ICR revises OMB Control No. 1018–0123 to include our new Wildlife Without Borders Africa Grant Program. The ICR, which is summarized below, describes the nature of the collection and the estimated burden and cost. We 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.

DATES: You must submit comments on or before May 12, 2008.

ADDRESSES: Send your comments and suggestions on this ICR to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395–6566 (fax) or OIRA_DOCKET@OMB.eop.gov (e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); (703) 358–2269 (fax); or hope_grey@fws.gov (e-mail).

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey by mail, fax, or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018–0123.

Title: International Conservation Grant Programs.

Service Form Number(s): 3–2338.

Type of Request: Revision of a currently approved collection.

Affected Public: Domestic and nondomestic Federal, State, and local governments; nonprofit, nongovernmental organizations; public and private institutions of higher education; and any other organization or individual with demonstrated experience deemed necessary to carry out the proposed project.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Activity	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
Grant Application (cover page and narrative)	539*	539	12 hours	6,468
Report (mid-term and final)	126*	252	30 hours	7,560
Totals	665	791		14,028

*Of the 539 applicants, we estimate that 137 will be domestic and 402 will be nondomestic. Of the 126 grantees submitting reports, we estimate that 32 will be domestic and 94 will be nondomestic.

Abstract: The Division of International Conservation awards grants funded under the:

(1) African Elephant Conservation Act (16 U.S.C. 4201–4245).

(2) Asian Elephant Conservation Act of 1997 (16 U.S.C. 4261).

(3) Great Apes Conservation Act of 2000 (Pub. L. 106–411).

(4) Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5306).

(5) Marine Turtle Conservation Act (Pub. L. 108–266).

(6) Wildlife Without Borders Programs - Mexico, Latin America and the Caribbean, and Russia.

OMB has approved the information collection associated with the above grants and assigned control number 1018–0123. We have asked OMB to approve our proposed information collection associated with the Africa Grant Program, which will be our newest area of focus under the Wildlife Without Borders programs.

Africa's magnificent wildlife resources are under increasing pressure from human activities. The proposed Africa grant initiative aims to provide training opportunities for African conservationists, educators, and policymakers to strengthen wildlife management in and around protected areas. For the purpose of this fund, protected areas are defined as sites that are publicly or privately owned with recognized legal status accorded by national, provincial, or local government, containing primarily unmodified natural systems managed for long-term protection. Examples include: national parks, forest reserves, buffer zones, community reserves, and privately held land conservancies. Of particular interest are projects that provide training to:

(1) Raise capacity in and around protected areas to mitigate the impact of extractive industries, climate change, human /wildlife conflict, illegal trade in bushmeat, and/or wildlife disease.

(2) Strengthen the administrative capacity (human resource management, financial management, vehicle and facility maintenance, grant writing and project implementation, community outreach and education, conflict resolution, and coalition building) of protected areas.

(3) Strengthen university, college, and other conservation training programs that address protected area management.

(4) Strengthen decisionmakers' knowledge of concepts relevant to protected area legislation, policy, and finance and the importance of harmonizing these with other national sectoral policies.

By providing wildlife professionals with opportunities for training, we can help empower a generation of local people to address key conservation issues such as the threat to wildlife from extractive industries, illegal hunting, human/wildlife conflict, and wildlife disease.

Applicants submit proposals for funding in response to Notices of Funding Availability that we will publish on Grants.gov. We plan to collect the following information:

(1) Cover page with basic project details (FWS Form 3–2338).

(2) Project summary and narrative.

(3) Letter of appropriate government endorsement.

(4) Brief curricula vitae for key project personnel.

(5) Complete Standard Forms 424 and 424b (nondomestic applicants do not submit the standard forms).

Proposals may also include, as appropriate, a copy of the organization's Negotiated Indirect Cost Rate Agreement (NIRCA) and any additional documentation supporting the proposed project.

The project summary and narrative are the basis for this information collection request for approval. A panel of technical experts reviews each proposal to assess how well the project addresses the priorities identified by each program's authorizing legislation. As all of the on-the-ground projects funded by this program will be conducted outside the United States, the letter of appropriate government endorsement ensures that the proposed activities will not meet with local resistance or work in opposition to locally identified priorities and needs. Brief curricula vitae for key project personnel allow the review panel to assess the qualifications of project staff to effectively carry out the project goals and objectives. As all Federal entities must honor the indirect cost rates an organization has negotiated with its cognizant agency, we require all organizations with a NICRA to submit the agreement paperwork with their proposals to verify how their rate is applied in their proposed budget. Applicants may provide any additional documentation that they believe best supports their proposal.

Comments: On October 30, 2007, we published in the Federal Register (72 FR 61363) a notice of our intent to request that OMB approve our proposed collection of information for the African Grant Program. In that notice, we solicited comments for 60 days, ending on December 31, 2007. We did not receive any comments in response to that notice.

We again invite comments concerning this information collection on:

(1) whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) the accuracy of our estimate of the burden for this collection of information;

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

(4) ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: February 12, 2008

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

FR Doc. E8–7648 Filed 4-10–08; 8:45 am

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2008–N0071; 20124–1113–0000–F2]

Draft Safe Harbor Agreement and Application for an Enhancement of Survival Permit for the Beautiful Shiner, Chiricahua Leopard Frog, Huachuca Water Umbel, Yaqui Catfish, Yaqui Chub, and Yaqui Topminnow in Cochise County, Arizona

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of application.

SUMMARY: Alysa F. Bennett, 99 Bar Ranch Limited Liability Limited Partnership, and Mr. Josiah and Mrs. Valer Austin, owners of the Bar Boot Ranch (Applicants), have applied to the U.S. Fish and Wildlife Service (Service) for an enhancement of survival permit (TE–160629–0)pursuant to Section 10(a)(1)(A) of the Endangered Species Act (Act), as amended. The requested permit, which is for a period of 50 years, would authorize incidental take of the threatened beautiful shiner (*Cyprinella formosa*), threatened Chiricahua leopard frog (*Rana chiricahuensis*), endangered Huachuca water umbel (*Lilaeopsis schaffneriana* var. *recurva*), threatened Yaqui catfish (*Ictalurus pricei*), endangered Yaqui chub (*Gila purpurea*), and endangered Yaqui topminnow (*Poeciliopsis occidentalis sonoriensis*) as a result of conservation actions, on-going livestock operations, recreation, land treatments, and other existing land-

use activities. We invite public comment.

DATES: To ensure consideration, written comments must be received on or before June 10, 2008.

ADDRESSES: Persons wishing to review the application, draft Safe Harbor Agreement (SHA), or other related documents may obtain a copy by written or telephone request to the Refuge Manager, U.S. Fish and Wildlife Service, San Bernardino/Leslie Canyon National Wildlife Refuges, P.O. Box 3509, Douglas, Arizona 85608 (520–364–2104). Electronic copies of these documents will also be available for review on the Arizona Ecological Services Field Office Web site, *http://www.fws.gov/southwest/es/arizona/*. The application and documents related to application will be available for public inspection, by appointment only, during normal business hours (7:30 a.m. to 3:30 p.m.) at the San Bernardino/Leslie Canyon National Wildlife Refuges office. Comments concerning the application, draft SHA, or other related documents should be submitted in writing to the Refuge Manager, U.S. Fish and Wildlife Service, San Bernardino/Leslie Canyon National Wildlife Refuges, P.O. Box 3509, Douglas, Arizona 85608. Please refer to permit number TE–160629–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Marty Tuegel at the U.S. Fish and Wildlife Service Tucson office, 201 N. Bonita Avenue, Suite 141, Tucson, Arizona, 85745 (520–670–6150) ext. 232, or by e-mail at *Marty_Tuegel@fws.gov*.

SUPPLEMENTARY INFORMATION: The Applicants plan to implement watershed improvements that are expected to improve soil stability and hydrologic function in the Leslie Canyon Watershed above the Leslie Canyon National Wildlife Refuge. These watershed improvements, will enhance and maintain existing habitat, create additional habitats, and reestablish populations of the beautiful shiner, Chiricahua leopard frog, Huachuca water umbel, Yaqui catfish, Yaqui chub, and Yaqui topminnow on the Applicants'private lands (approximately 9,050 mi^2 [23,440 km^2]) in Cochise County, Arizona. The SHA is expected to provide a net conservation benefit to the beautiful shiner, Chiricahua leopard frog, Huachuca water umbel, Yaqui catfish, Yaqui chub, and Yaqui topminnow.

The draft SHA and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969, based upon completion of a draft Environmental Assessment.

Section 9 of the Act prohibits the ''taking'' of threatened or endangered species. However, the Service, under limited circumstances, may issue permits to take threatened and endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities.

We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22), and the National Environmental Policy Act (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Christopher T. Jones,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. E8–7690 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–R–2008–N0030; 10120–1113–0000–F5]

Endangered Wildlife and Plants; Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of application to amend permit; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), invite the public to comment on the following application to amend an existing permit to conduct certain activities with endangered species.

DATES: We must receive your written data or comments by May 12, 2008.

ADDRESSES: Program Manager, Endangered Species, Ecological Services, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, OR 97232–4181.

FOR FURTHER INFORMATION CONTACT: Grant Canterbury, Fish and Wildlife Biologist, at the above Portland address or by telephone (503–231–2063) or fax (503–231–6243).

SUPPLEMENTARY INFORMATION: The following applicant has applied to amend an existing scientific research permit to conduct certain activities with endangered species under section 10(a)(1)(A) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*). We solicit review and comment from local, State, and Federal agencies and the public.

Permit No. TE–003483.

Applicant: U.S. Geological Survey, Biological Resources Discipline, Pacific Islands Ecosystem Research Center.

The applicant requests an amendment to an existing permit to take (capture, attach satellite radio transmitters, collect blood samples, and release) the Hawaiian goose (*Branta sandvicensis*) in conjunction with research on the Island of Hawaii in the State of Hawaii, for the purpose of enhancing its survival. **Federal Register** publication information about the original issuance and subsequent amendments to this permit follows:

Federal Register publication date	**Federal Register** citation
November 6, 2000	65 FR 66552
May 30, 2002	67 FR 37855
October 9, 2003	68 FR 58354l
May 22, 2007	72 FR 28709

Public Review of Comments

Please refer to the respective permit number for each application when submitting comments.

We solicit public review and comment on this recovery permit application. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Dated: March 13, 2008.

David J. Wesley,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. E8–7707 Filed 4–10–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–93343–FY, F–93344–FY, F–85448; AK–965–1410–KC–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving oil and gas for conveyance pursuant to the Alaska Native Claims Settlement Act, as amended, will be issued to Doyon, Limited. The oil and gas was reserved to the United States pursuant to the Act of March 8, 1922, as amended and supplemented, in Native allotment certificates issued for the lands described below:

U.S. Survey No. 4129, Alaska, in T. 20 N., R. 9 E., Fairbanks Meridian (FM);
U.S. Survey No. 4180, Alaska, in T. 21 N., R. 10 E., and T. 20 N., R. 11 E., FM;
U.S. Survey No. 6999, Alaska, in T. 21 N., R. 10 E., FM;
U.S. Survey No. 7002, Alaska, in T. 21 N., R. 9 E., FM;
U.S. Survey No. 7003, Alaska, in T. 21 N., R. 9 E., FM;
U.S. Survey No. 7005, Alaska, in T. 21 N., R. 9 E., FM;
Lots 1, 2, and 3, U.S. Survey No. 7007, Alaska, in T. 21 N., R. 11 E., FM;
Lots 1 and 2, U.S. Survey No. 7011, Alaska, in T. 20 N., R. 9 E., FM;
Lots 1 and 2, U.S. Survey No. 7013, Alaska, in T. 20 N., R. 11 E., FM;
U.S. Survey No. 7016, Alaska, in T. 20 N., R. 11 E., FM;
Lots 2, 3, and 4, U.S. Survey No. 7157, Alaska, T. 20 N., R. 11 E., FM;
U.S. Survey No. 7158, Alaska, in T. 20 N., R. 11 E., FM;
Lots 1 and 2, U.S. Survey No. 7159, Alaska, in T. 20 N., R. 11 E., FM;
Lots 3 and 4, U.S. Survey No. 7160, Alaska, in T. 20 N., R. 11 E., FM;
U.S. Survey No. 8185, Alaska, in Tps. 21 N., Rs. 10 and 11 E., FM;
U.S. Survey No. 8188, Alaska, in T. 21 N., R. 9 E., FM;
U.S. Survey No. 8189, Alaska, in T. 21 N., R. 9 E., FM;
Lots 1 and 2, U.S. Survey No. 8192, Alaska, in T. 20 N., R. 10 E., FM;
Lots 1, 2, and 3, U.S. Survey No. 9797, Alaska, in T. 21 N., R. 11 E., FM;
U.S. Survey No. 9806, Alaska, in T. 21 N., R. 11 E., FM;
Lots 1 and 2, U.S. Survey No. 9810, Alaska, in T. 21 N., R. 9 E., FM;
Lots 1 and 2, U.S. Survey No. 9812, Alaska, in T. 21 N., R. 9 E., FM;
Lots 1 to 10, inclusive, U.S. Survey No. 9818, Alaska, in T. 21 N., R. 11 E., FM;
U.S. Survey No. 9826, Alaska, in T. 21 N., R. 11 E., FM;
Lots 1 to 8, inclusive, U.S. Survey No. 9852, Alaska, T. 21 N., R. 11 E., FM;
U.S. Survey No. 9860, Alaska, in T. 21 N., R. 10 E., FM;
U.S. Survey No. 9861, Alaska, in T. 21 N., R. 10 E., FM;
Lots 1 to 7, inclusive, U.S. Survey No. 9862, Alaska, in Tps. 21 N., Rs. 9 and 10 E., FM;
U.S. Survey No. 9863, Alaska, in T. 21 N., R. 10 E., FM;
Lots 1 and 2, U.S. Survey No. 9864, Alaska, in T. 21 N., R. 10 E., FM.

The lands are located in the vicinity of Fort Yukon, Alaska, and aggregate approximately 6,775 acres.

Notice of the decision will also be published four times in the Fairbanks Daily News-Miner.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until May 12, 2008 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION, CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Christy Favorite,

Land Law Examiner, Branch of Land Transfer Adjudication II.

[FR Doc. E8–7710 Filed 4–10–08; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–5410–00–B211; CACA 47945–01]

Conveyance of Federally-Owned Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of application and segregation of land.

SUMMARY: An application has been filed on March 25, 2008, for the conveyance of the Federally-owned mineral interests in the tract of land described in this notice. Publication of this notice temporarily segregates the mineral interests in the land covered by the application from appropriation under the mining and mineral leasing laws while the application is being processed.

FOR FURTHER INFORMATION CONTACT: Dianna Storey, Bureau of Land Management, California State Office, 2800 Cottage Way, Sacramento, California 95825, (916) 978–4676.

Your comments are invited. Please submit all comments in writing to Dianna Storey at the address listed above. Comments, including names, street addresses, and other contact information of respondents, will be available for public review. Individual respondents may request confidentiality. If you wish to request that the BLM consider withholding your name, street address, and other contact information, e.g. internet address, FAX or phone number, from public review of disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. The BLM will honor requests for confidentiality on a case-by-case to the extent allowed by law. The BLM will make available for public inspection, in their entirety, all submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

SUPPLEMENTARY INFORMATION: The tract of land referred to in this notice consists of 440 acres of land, situated in Los Angeles County, and is described as follows:

San Bernardino Meridian, California

T. 4 N., R. 14 W.,
Sec. 4, SW¼NE¼, NE¼SW¼, S½SW¼, and SE¼.
Sec. 9, N½NE¼ and SW¼NE¼.

Under certain conditions, Section 209(b) of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1719 (FLPMA) authorizes the sale and conveyance of the Federally-owned mineral interests in land when the non-mineral (or so called surface interest in land) is not Federally-owned. The objective is to allow consolidation of the surface and mineral interests when either one of the following conditions exist: (1) There are no known mineral values in the land; or (2) where continued Federal ownership of the mineral interests interferes with or precludes appropriate non-mineral development and such development is a more beneficial use of the land than mineral development.

An application was filed for the sale and conveyance of the Federally-owned mineral interests in the above-described tract of land. Publication of this notice segregates, subject to valid existing rights, the Federally-owned mineral interests in the land referenced above in this notice from appropriation under the general mining and mineral leasing laws, while the application is being

processed to determine if either one of the two specified conditions exists and, if so, to otherwise comply with the procedural requirements of 43 CFR Part 2720. The segregative effect shall terminate: (i) Upon issuance of a patent or other document of conveyance as to such mineral interests; (ii) upon final rejection of the application; or (iii) two years from the date of filing the application, whichever occurs first.

Authority: 43 CFR 2720.1–1(b).

Dated: April 2, 2008.

Robert Doyel,

Chief, Branch of Lands Management.

[FR Doc. E8–7688 Filed 4–10–08; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–320–1610–DQ–091A]

Notice of Availability of Proposed Resource Management Plan and Final Environmental Impact Statement for the Yuma Field Office

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 and the Federal Land Policy and Management Act of 1976, the Bureau of Land Management (BLM) has prepared a Proposed Resource Management Plan/Final Environmental Impact Statement (PRMP/FEIS) for the Yuma Field Office.

DATES: BLM Planning Regulations (43 CFR 1610.5–2) state that any person who participated in the planning process, and has an interest that may be adversely affected, may protest the BLM's Proposed RMP. The protest must be filed within 30 days of the date that the Environmental Protection Agency publishes its notice of availability in the **Federal Register**. Instructions for filing of protests are described in the Dear Reader letter of the Yuma Field Office PRMP/FEIS and included in the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: Copies of the Yuma Field Office PRMP/FEIS have been sent to affected Federal, state, and local government agencies and to interested parties. Copies of the proposed Plan/Final EIS are available for public inspection at Yuma Field Office, 2555 Gila Ridge Road, Yuma, Arizona 85365. Interested persons may also review the proposed plan/Final EIS on the Internet at *http://www.blm.gov/az/LUP/yuma/yuma_plan.htm*.

FOR FURTHER INFORMATION CONTACT: David Daniels, Bureau of Land Management, 2555 Gila Ridge Road, Yuma, Arizona 85365 or 928–317–3200.

SUPPLEMENTARY INFORMATION: The planning area encompasses more than 1.3 million acres of BLM-administered lands. The PRMP/FEIS includes strategies for protecting and preserving the biological, cultural, recreational, geological, educational, scientific, and scenic values that balance multiple uses of the BLM-administered lands throughout the Yuma Field Office planning area. Four primary issues were raised and addressed through this planning process: (1) Determining appropriate management of transportation and public access regarding off-highway use, proliferation of routes, and vehicle restrictions and/or limitations, (2) determining appropriate provisions for recreational demand and use that are compatible with natural, biological, and cultural resources on BLM-administered lands, (3) the need to manage and protect fish and wildlife habitat including threatened and endangered species including the southwestern willow flycatcher, Yuma clapper rail, razor back sucker, Mojave desert tortoise, and Sonoran pronghorn and (4) the management of BLM-administered public lands with wilderness characteristics.

The Proposed Plan attempts to accomplish the above through coordination with the Bureau of Reclamation, U.S. Fish and Wildlife Service, Arizona Department of Transportation, Arizona State Land Department, Arizona Game and Fish Department, California Department of Fish and Game, the BLM, and other land-managing agencies within the boundaries of the planning areas. The range of alternatives in this PRMP/FEIS evaluates planning decisions brought forward from current BLM planning documents; the *Yuma District Resource Management Plan* (1987), the *Lower Gila South Resource Management Plan* (1988), and the *Lower Gila North Management Framework Plan* (1983).

The Proposed Plan identifies two existing Areas of Critical Environmental Concern (ACECs): Big Marias ACEC (4,500 acres) and Gila River Cultural ACEC (3,700 acres). The Proposed Plan identifies one potential ACEC: Dripping Springs ACEC (11,700 acres). The Proposed Plan also identifies the expansion of the Gila River Cultural ACEC (28,500 acres), which would officially be renamed the Sears Point Cultural ACEC.

The following types of resource use limitations would generally apply to these ACECs: (1) Allowable uses would be limited to those which are compatible with the natural or cultural resources for which the area is designated, (2) recreation facilities would be limited to projects that protect ACEC values; (3) travel would be permitted only on designated open and signed routes. For detailed information see Chapter 2 of the Proposed Plan, Description of Alternatives, Special Designations Management.

Comments on the Draft RMP/Draft EIS received from the public and internal BLM review were incorporated into the Proposed Plan. Public comments resulted in eliminating Backcountry Byways, eliminating new OHV open areas and the addition of clarifying text, but did not significantly change proposed land use decisions.

As noted above, instructions for filing a protest with the Director of the BLM regarding the Proposed Plan/Final EIS may be found at 43 CFR 1610.5. E-mail and faxed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular or overnight mail postmarked by the close of the protest period. Under these conditions, the BLM will consider the e-mail or faxed protest as an advance copy and it will receive full consideration. If you wish to provide the BLM with such advance notification, please direct faxed protests to the attention of the BLM protest coordinator at 202–452–5112, and e-mails to *Brenda_Hudgens-Williams@blm.gov*.

All protests, including the follow-up letter (if e-mailing or faxing) must be in writing and mailed to the following address: Regular Mail: Director (210), Attention: Brenda Williams, P.O. Box 66538, Washington, DC 20035. Overnight Mail: Director (210), Attention: Brenda Williams, 1620 L Street, NW., Suite 1075, Washington, DC 20036.

Before including your phone number, e-mail address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us in your protest to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 11, 2007.

Helen M. Hankins,

Arizona Associate State Director.

[FR Doc. E8–7622 Filed 4–10–08; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Gulf of Mexico (GOM), Outer Continental Shelf (OCS), Central Planning Area (CPA) and Western Planning Area (WPA), Oil and Gas Lease Sales for Years 2009–2012

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of Availability (NOA) of the Draft Supplemental Environmental Impact Statement (SEIS) and Public Hearings.

SUMMARY: The MMS has prepared a draft SEIS on oil and gas lease sales tentatively scheduled in 2009–2012 in the CPA and WPA offshore the States of Texas, Louisiana, Mississippi, and Alabama. As mandated in the Gulf of Mexico Energy Security Act of 2006 (GOMESA) (Pub. L. 109–432, December 20, 2006), the MMS shall offer, as soon as practicable, approximately 5.8 million acres located in the southeastern part of the CPA (''181 South Area''). The CPA Sale 208 (March 2009) will be the first sale to include the ''181 South Area.'' The draft SEIS analyzed the potential environmental effects of oil and natural gas leasing, exploration, development, and production in the ''181 South Area'' and newly available information.

Authority: This NOA and notice of public hearings is published pursuant to the regulations (40 CFR 1503) implementing the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.* (1988)).

SUPPLEMENTARY INFORMATION: As mandated in GOMESA, the MMS shall offer the ''181 South Area'' for oil and gas leasing pursuant to the OCS Lands Act (43 U.S.C. 1331 *et seq.*). In March 2009, proposed Lease Sale 208 would be the first CPA sale to offer the ''181 South Area.'' The draft SEIS supplements the *Gulf of Mexico OCS Oil and Gas Lease Sales: 2007–2012; Western Planning Area Sales 204, 207, 210, 215, and 218; Central Planning Area Sales 205, 206, 208, 213, 216, and 222, Final Environmental Impact Statement* (OCS EIS/EA MMS 2007–018, Multisale EIS). The Multisale EIS did not analyze the ''181 South Area'', therefore the MMS has prepared the draft SEIS to address the addition of the ''181 South Area'' to the proposed CPA sale area. Also an extensive search was conducted for new information published since completion of the Multisale EIS, including various Internet sources, scientific journals, and interviews with personnel from academic institutions, and Federal, State, and local agencies.

Based on new information and the expanded CPA sale area, the MMS has reexamined potential impacts of routine activities and accidental events associated with the proposed CPA and WPA lease sales, and a proposed lease sale's incremental contribution to the cumulative impacts on environmental and socioeconomic resources. Like the Multisale EIS, the resource estimates and scenario information for the SEIS analyses are presented as a range that would encompass the resources and activities estimated for any of the seven proposed lease sales. At the completion of the SEIS process, a decision will be made for proposed CPA Sale 208 (2009) and WPA Sale 210 (2009).

Draft SEIS Availability: To obtain a single, printed or CD–ROM copy of the draft SEIS, you may contact the Minerals Management Service, Gulf of Mexico OCS Region, Public Information Office (Mail Stop 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394 (1–800–200–GULF). An electronic copy of the draft EIS is available at the MMS's Internet Web site at *http://www.gomr.mms.gov/homepg/regulate/environ/nepa/nepaprocess.html.* Several libraries along the Gulf Coast have been sent copies of the draft SEIS. To find out which libraries, and their locations, have copies of the draft SEIS for review, you may contact the MMS's Public Information Office or visit the MMS Internet Web site at *http://www.gomr.mms.gov/homepg/regulate/environ/libraries.html.*

Public Hearings: The MMS will hold public hearings to receive comments on the draft SEIS. The public hearings are scheduled as follows:

- Tuesday, May 13, 2008, Larose Civic Center, 307 East 5th Street, Larose, Louisiana, 6 p.m.
- Wednesday, May 14, 2008, Louisiana State University, Center for Energy Studies, 1077 Energy, Coast and Environment Building, Baton Rouge, Louisiana, 1 p.m.
- Thursday, May 15, 2008, Renaissance Riverview Plaza Hotel, 64 South Water Street, Mobile, Alabama, 6 p.m.

If you wish to testify at a hearing, you may register one hour prior to the meeting. Each hearing will briefly recess when all speakers have had an opportunity to testify. If there are no additional speakers, the hearing will adjourn immediately after the recess. Written statements submitted at a hearing will be considered part of the hearing record. If you are unable to attend the hearings, you may submit written statements.

Comments: Federal, State, and local government agencies and other interested parties are requested to send their written comments on the draft SEIS in one of the following two ways:

1. In written form enclosed in an envelope labeled ''Comments on the Supplemental Multisale EIS'' and mailed (or hand carried) to the Regional Supervisor, Leasing and Environment (Mail Stop 5410), Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

2. Electronically to the MMS e-mail address: *environment@mms.gov*.

Comments should be submitted no later than 60 days from the publication of this NOA.

FOR FURTHER INFORMATION CONTACT: For more information on the draft SEIS or the public hearings, you may contact Dennis Chew, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard (Mail Stop 5412), New Orleans, Louisiana 70123–2394, or by e-mail at *environment@mms.gov*. You may also contact Mr. Chew by telephone at (504) 736–2793.

Dated: March 14, 2008.

Chris C. Oynes,

Associate Director for Offshore Minerals Management.

[FR Doc. E8–7775 Filed 4–10–08; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Yakima River Basin Conservation Advisory Group Charter Renewal

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of renewal.

SUMMARY: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972 (Pub. L. 92–463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is renewing the charter for the Yakima River Basin Conservation Advisory Group (CAG). The purpose of the CAG is to provide recommendations to the Secretary of the Interior and the State of

Washington on the structure and implementation of the Yakima River Basin Water Conservation Program. In consultation with the State, the Yakama Nation, Yakima River basin irrigators, and other interested and related parties, six members are appointed to serve on the CAG.

The basin conservation program is structured to provide economic incentives with cooperative Federal, State, and local funding to stimulate the identification and implementation of structural and nonstructural cost-effective water conservation measures in the Yakima River basin. Improvements in the efficiency of water delivery and use will result in improved streamflows for fish and wildlife and improve the reliability of water supplies for irrigation.

FOR FURTHER INFORMATION CONTACT: Ms. Dawn Wiedmeier, Deputy Area Manager, Yakima River Basin Water Enhancement Program, telephone 509–575–5848, extension 213.

Certification

I hereby certify that Charter renewal of the Yakima River Basin Conservation Advisory Group is in the public interest in connection with the performance of duties imposed on the Department of the Interior.

Dirk Kempthorne,

Secretary of the Interior.

[FR Doc. E8–7728 Filed 4–10–08; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Availability of the Record of Decision for the adoption of Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead.

SUMMARY: The Department of the Interior, acting through the Bureau of Reclamation, published a **Federal Register** notice on November 2, 2007 (72 FR 62272) which informed the public of the availability of the final environmental impact statement on the proposed adoption of specific Colorado River Lower Basin shortage guidelines and coordinated reservoir management strategies to address the operations of Lake Powell and Lake Mead, particularly under low reservoir conditions, through 2026. We are now notifying the public that the Secretary of the Interior signed the Record of Decision (ROD) on December 13, 2007. The text of the ROD is found below.

FOR FURTHER INFORMATION CONTACT: Terrance J. Fulp, Ph.D., at (702) 293–8500 or e-mail at *strategies@lc.usbr.gov;* and/or Randall Peterson at (801) 524–3633 or e-mail at *strategies@lc.usbr.gov.*

The ROD is electronically available on Reclamation's project Web site at: *http://www.usbr.gov/lc/region/programs/strategies.html.* Alternatively, a compact disc or hard copy is available upon written request to: Regional Director, Lower Colorado Region, Bureau of Reclamation, Attention: BCOO–1005, P.O. Box 61470, Boulder City, Nevada 89006–1470; fax at (702) 293–8156; or e-mail at *strategies@lc.usbr.gov.*

Dated: March 28, 2008.

Dirk Kempthorne,

Secretary, Department of the Interior.

Record of Decision; Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead (December 2007)

Recommending Official: Robert Johnson, Commissioner, Bureau of Reclamation, December 13, 2007.

Approved: Dirk Kempthorne, Secretary of the Department of the Interior, December 13, 2007.

Record of Decision; Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead Final Environmental Impact Statement (November 2007)

I. Introduction

The Colorado River Basin (Basin) is in the eighth year of drought—the worst eight-year period in over a century of continuous recordkeeping. Reservoir elevations have declined over this period and the duration of this ongoing, historic drought is unknown. This is the first long-term drought in the modern history of the Colorado River, although climate experts and scientists suggest droughts of this severity have occurred in the past and are likely to occur in the future. The Colorado River provides water to two nations, and to users within seven western states. With over 27 million people relying on the Colorado River for drinking water in the United States, and over 3.5 million acres of farmland in production in the Basin, the Colorado River is the single most important natural resource in the Southwest.

The Secretary of the Interior (Secretary) has a unique role on the Colorado River—charged with management of a vast system of dams and reservoirs that have provided water for the development of the Southwest.

Under these conditions, conflict over water is unsurprising and anticipated. Declining reservoir levels in the Basin led to interstate and inter-basin tensions. As the agency charged with management of the Colorado River, the Department of the Interior (Department) had not yet developed operational rules for the full range of operations at Lake Powell and Lake Mead because these types of low-reservoir conditions had simply not yet occurred.

Against this background, at the direction of the Secretary, the Department initiated a public process in May of 2005 to develop additional operational guidelines and tools to meet the challenges of the drought in the Basin. While water storage in the massive reservoirs afforded great protection against the drought, the Department set a goal to have detailed, objective operational tools in place by the end of 2007 in order to be ready to make informed operational decisions if the reservoirs continued to decline.

During the public process, a unique and remarkable consensus emerged in the basin among stakeholders including the Governor's representatives of the seven Colorado River Basin States (Basin States). This consensus had a number of common themes: encourage conservation, plan for shortages, implement closer coordination of operations of Lake Powell and Lake Mead, preserve flexibility to deal with further challenges such as climate change and deepening drought, implement operational rules for a long—but not permanent—period in order to gain valuable operating experience, and continue to have the federal government facilitate—but not dictate—informed decision-making in the Basin.

Today, this Record of Decision (ROD) constitutes the Department's final decision after facilitating, analyzing, and considering public input over the past two and one-half years, during which the ongoing drought continued to focus nationwide attention on the Basin. A broad range of considerations have been analyzed, involving water supply, environmental protection, hydropower production, and recreation—all benefits that flow from the management of the Colorado River.

This document is the ROD of the Department of the Interior, regarding the Preferred Alternative for Colorado River

Interim Guidelines for Lower Basin Shortages and Coordinated Operations of Lake Powell and Lake Mead (Guidelines). The Secretary is vested with the responsibility of managing the mainstream waters of the lower Colorado River pursuant to federal law. This responsibility is carried out consistent with applicable federal law.

The Bureau of Reclamation (Reclamation), the agency that is designated to act on the Secretary's behalf with respect to these matters, is the lead federal agency for the purposes of the National Environmental Policy Act. The Final Environmental Impact Statement—*Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead*, dated October 2007 (FES–07–37) (Final EIS), was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, the Council on Environmental Quality's (CEQ's) Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] parts 1500 through 1508), Department of the Interior Policies, and Reclamation's NEPA Handbook. The Final EIS was filed with the Environmental Protection Agency (EPA) on October 26, 2007 and noticed by EPA (72 FR 62229) and Reclamation (72 FR 62272) in the **Federal Register** on November 2, 2007.

The Final EIS was prepared by Reclamation to address the formulation and evaluation of specific interim guidelines for shortage determinations and coordinated reservoir operations, and to identify the potential environmental effects of implementing such guidelines. The Final EIS addresses the environmental issues associated with, and analyzes the environmental consequences of various alternatives for specific interim guidelines. The alternatives addressed in the Final EIS are those Reclamation determined would meet the purpose of and need for the federal action and represented a broad range of the most reasonable alternatives.

The Bureau of Indian Affairs (BIA), Fish and Wildlife Service (FWS), National Park Service (NPS), Western Area Power Administration (Western) and the United States Section of the International Boundary and Water Commission (USIBWC) are cooperating agencies for purposes of assisting with the environmental analysis in the Final EIS.

The BIA has responsibility for the administration and management of lands held in trust by the United States for American Indians (Indian) and Indian tribes located within the Basin. Developing forestlands, leasing assets on these lands, directing agricultural programs, protecting water and land rights, developing and maintaining infrastructure, and economic development are all part of the BIA's responsibility.

FWS manages four national wildlife refuges along the Colorado River. Among its many other key functions, the FWS administers and implements federal wildlife laws, protects endangered species, manages migratory birds, restores nationally significant fisheries, conserves and restores wildlife habitat such as wetlands, and assists foreign governments with international conservation efforts.

The NPS administers areas of national significance along the Colorado River, including Glen Canyon National Recreation Area, Grand Canyon National Park, and Lake Mead National Recreation Area. The NPS conserves natural and cultural resources and administers visitor use, and also grants and administers concessions for the operation of marinas and other recreation facilities at Lake Powell and Lake Mead, as well as concessions' operations along the Colorado River between Glen Canyon Dam and Lake Mead.

Western markets and transmits power generated from the various hydropower plants located within the Basin operated by Reclamation. Western customers include municipalities, cooperatives, public utility and irrigation districts, federal and state agencies, investor-owned utilities, and Indian tribes located throughout the Basin.

The USIBWC is the United States component of a bi-national organization responsible for administration of the provisions of the February 3, 1944 Treaty between the United States and Mexico Relating to the Utilization of the Waters of the Colorado and Tijuana Rivers and of the Rio Grande (1944 Treaty), which includes the Colorado River waters allotted to Mexico, protection of lands along the Colorado River from floods by levee and floodway construction projects, resolution of international boundary water sanitation and other water quality problems, and preservation of the Colorado River as the international boundary. The International Boundary and Water Commission (IBWC) consists of the United States Section and the Mexican Section, which have their headquarters in the adjoining cities of El Paso, Texas and Ciudad Juarez, Chihuahua, respectively.

II. Decision

The recommendation is the approval of the following federal action: The adoption of specific interim guidelines for Lower Basin shortages and coordinated operations of Lake Powell and Lake Mead, as provided below in Section XI. These interim Guidelines are based upon the Preferred Alternative analyzed in the Final EIS, and include several operational refinements as a result of public input, described below in Section VII. The interim Guidelines would be used each year by the Department in implementing the Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968 (Long-Range Operating Criteria or Operating Criteria or LROC), through issuance of the Annual Operating Plan for Colorado River Reservoirs (AOP). The Guidelines would remain in effect for determinations to be made through 2025 regarding water supply and reservoir operating decisions through 2026, as provided below in Section 8 of the Guidelines.

The Preferred Alternative proposes:

- Discrete levels of shortage volumes associated with Lake Mead elevations to conserve reservoir storage and provide water users and managers in the Lower Basin with greater certainty to know when, and by how much, water deliveries will be reduced in drought and other low reservoir conditions;
- A coordinated operation of Lake Powell and Lake Mead determined by specified reservoir conditions that would minimize shortages in the Lower Basin and avoid the risk of curtailments in the Upper Basin;
- A mechanism to encourage and account for augmentation and conservation of water supplies, referred to as Intentionally Created Surplus (ICS), that would minimize the likelihood and severity of potential future shortages; and
- The modification and extension of the Interim Surplus Guidelines (66 Fed. Reg. 7772, Jan 25, 2001) (ISG) through 2026.

III. Background

The Secretary, acting through Reclamation, is responsible for water management throughout the western United States. Reclamation's authority is limited throughout the west by the limiting provisions of Reclamation law, beginning with the Reclamation Act of 1902.

The Secretary also has a broader and unique legal role as he manages the lower Colorado River system in

accordance with federal law, including the Boulder Canyon Project Act of 1928, the 1963 Decision of the U.S. Supreme Court in Arizona v. California, the 2006 Consolidated Decree of the U.S. Supreme Court in Arizona v. California (Consolidated Decree), the Colorado River Basin Project Act of 1968 (CRBPA), the LROC, and the Grand Canyon Protection Act of 1992, and other applicable provisions of federal law. Within this legal framework, the Secretary makes annual determinations regarding the availability of water from Lake Mead by considering various factors, including the amount of water in system storage and predictions for natural runoff. The CRBPA directed the Secretary to propose and adopt criteria: ''In order to comply with and carry out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, and the Mexican Water Treaty, * * * for the coordinated long-range operation of the reservoir constructed and operated under the authority of the Colorado River Storage Project Act, the Boulder Canyon Project Act, and the Boulder Canyon Project Adjustment Act.''

Pursuant to the CRBPA, the narrative provisions of LROC are utilized by the Secretary, on an annual basis, to make determinations with respect to the projected plan of operations of the storage reservoirs in the Basin. The AOP is prepared by Reclamation, acting on behalf of the Secretary, in consultation with representatives of the Basin States and other parties, as required by federal law. In the AOP, with respect to operations of Hoover Dam, the Secretary is required to determine when Normal, Surplus, or Shortage conditions occur in the lower Colorado River, based on various factors including storage and hydrologic conditions in the Basin.

As described in the Final EIS:

• A ''Normal Condition'' exists when the Secretary determines that sufficient mainstream water is available to satisfy 7.5 million acre-feet (maf) of annual consumptive use in the Lower Division states (Arizona, California, and Nevada). If a state will not use all of its apportioned water for the year, the Secretary may allow other states of the Lower Division to use the unused apportionment, provided that the use is authorized by a water delivery contract with the Secretary.

• A ''Surplus Condition'' exists when the Secretary determines that sufficient mainstream water is available for release to satisfy consumptive use in the Lower Division states in excess of 7.5 maf annually. The water available for excess consumptive use is surplus and is distributed for use in Arizona, California, and Nevada pursuant to the terms and conditions provided in the ISG. The current provisions of the ISG are scheduled to terminate in 2016. In general terms, the ISG link the availability of surplus water to the elevation of Lake Mead. When Lake Mead is full and Reclamation is making flood control releases, surplus supplies are unlimited. As Lake Mead's elevation drops, surplus water amounts are reduced, and ultimately eliminated. The ISG also link surplus availability to continued progress by California in reducing its agricultural use of water to benchmarks established in the ISG. If a state does not use all of its apportioned water for the year, the Secretary may allow other Lower Division states to use the unused apportionment, provided that the use is authorized by a water delivery contract with the Secretary.

• A ''Shortage Condition'' exists when the Secretary determines that insufficient mainstream water is available to satisfy 7.5 maf of annual consumptive use in the Lower Division states. To date, the Secretary has never made such a determination, as flow in the Colorado River has been sufficient to meet Normal or Surplus delivery amounts. When making a shortage determination, the Secretary must consult with various parties as set forth in the Consolidated Decree and consider all relevant factors as specified in the LROC, including 1944 Treaty obligations, the priorities set forth in the Consolidated Decree, and the reasonable consumptive use requirements of mainstream water users in the Lower Division states. If a state does not use all of its apportioned water for the year, the Secretary may allow other Lower Division states to use the unused apportionment, provided that the use is authorized by a water delivery contract with the Secretary.

As discussed above, during the period from 2000 to 2007, the Colorado River has experienced the worst drought conditions in approximately one hundred years of recorded history. This drought in the Basin has reduced Colorado River system storage, while demands for Colorado River water supplies have continued to increase. From October 1, 1999 through September 30, 2007, storage in Colorado River reservoirs fell from 55.8 maf (approximately 94 percent of capacity) to 32.1 maf (approximately 54 percent of capacity), and was as low as 29.7 maf (approximately 52 percent of capacity) in 2004. This drought was the first sustained drought experienced in the Basin at a time when all major storage facilities were in place, and when use by the Lower Division states met or exceeded the annual ''normal'' apportionment of 7.5 maf pursuant to Article II(B)(1) of the Consolidated Decree.

Currently, the Department does not have specific operational guidelines in place to address the operations of Lake Powell and Lake Mead during drought and low reservoir conditions. To date, storage of water and flows in the Colorado River have been sufficient so that it has not been necessary to reduce Lake Mead annual releases below 7.5 maf; that is, the Secretary has never reduced deliveries by declaring a ''shortage'' on the lower Colorado River. Without operational guidelines in place, however, water users in the Lower Division states who rely on Colorado River water are not currently able to identify particular reservoir conditions under which the Secretary would reduce the annual amount of water available for consumptive use from Lake Mead to the Lower Division states below 7.5 maf. Nor are these water users able to identify the frequency or magnitude of any potential future annual reductions in their water deliveries.

Accordingly, the Secretary, acting through Reclamation, proposes adoption of specific Colorado River Lower Basin shortage guidelines and coordinated reservoir management strategies to address operations of Lake Powell and Lake Mead, particularly under drought and low reservoir conditions. These Guidelines are found at Section XI of this ROD. This action is proposed in order to provide a greater degree of certainty to United States Colorado River water users and managers of the Basin by providing detailed, and objective guidelines for the operations of Lake Powell and Lake Mead, thereby allowing water users in the Lower Basin to know when, and by how much, water deliveries will be reduced in drought and other low reservoir conditions.

The Secretary has also determined the desirability of developing additional operational guidelines that will provide for releases greater than or less than 8.23 maf from Lake Powell. To further enhance this coordinated reservoir approach, the Secretary has determined a need for guidelines that provide water users in the Lower Division states the opportunity to conserve and take delivery of water in and from Lake Mead for the purposes of enhancing existing water supplies, particularly under low reservoir conditions. In addition, the Secretary has determined the need to modify and extend the ISG to coincide with the duration of the proposed new Guidelines. This will provide an integrated approach for reservoir management and more

predictability for future Lower Division water supplies.

IV. Alternatives Considered

The purpose of the proposed federal action is to:

- Improve Reclamation's management of the Colorado River by considering trade-offs between the frequency and magnitude of reductions of water deliveries, and considering the effects on water storage in Lake Powell and Lake Mead, and on water supply, power production, recreation, and other environmental resources;
- Provide mainstream United States users of Colorado River water, particularly those in the Lower Division states, a greater degree of predictability with respect to the amount of annual water deliveries in future years, particularly under drought and low reservoir conditions; and
- Provide additional mechanisms for the storage and delivery of water supplies in Lake Mead to increase the flexibility of meeting water use needs from Lake Mead, particularly under drought and low reservoir conditions.

This proposed federal action considers four operational elements that collectively are designed to address the purpose and need for the proposed federal action. The interim Guidelines would be used by the Secretary to:

- Determine those circumstances under which the Secretary would reduce the annual amount of water available for consumptive use from Lake Mead to the Colorado River Lower Division states below 7.5 maf (a ''Shortage'') pursuant to Article II(B)(3) of the Consolidated Decree;
- Define the coordinated operation of Lake Powell and Lake Mead to provide improved operation of these two reservoirs, particularly under low reservoir conditions;
- Allow for the storage and delivery, pursuant to applicable federal law, of conserved Colorado River system and non-system water in Lake Mead to increase the flexibility of meeting water use needs from Lake Mead, particularly under drought and low reservoir conditions; and
- Determine those conditions under which the Secretary may declare the availability of surplus water for use within the Lower Division states. The proposed federal action would modify the substance of the existing ISG and the term of the ISG from 2016 through 2026.

Six alternatives are considered and analyzed in the Final EIS. The alternatives consist of a No Action Alternative and five action alternatives. The five action alternatives are: Basin States Alternative, Conservation Before Shortage Alternative, Water Supply Alternative, Reservoir Storage Alternative, and the Preferred Alternative. The action alternatives reflect input from Reclamation staff, the cooperating agencies, stakeholders, and other interested parties.

Reclamation received two written proposals for alternatives that met the purpose and need of the proposed federal action, one from the Basin States and another from a consortium of environmental non-governmental organizations (NGO). These proposals were used by Reclamation to formulate two of the alternatives considered and analyzed in the Final EIS (Basin States Alternative and Conservation Before Shortage Alternative). A third alternative (Water Supply Alternative) was developed by Reclamation, and a fourth alternative (Reservoir Storage Alternative) was developed by Reclamation in coordination with the NPS and Western. The No Action Alternative and the action alternatives analyzed in the Draft EIS were posted on Reclamation's project Web site (*http://www.usbr.gov/lc/region/programs/strategies.html*) on June 30, 2006.

A fifth alternative, the Preferred Alternative, was developed (and included in the Final EIS) after consideration of the comments received on the Draft EIS and further analysis. The Preferred Alternative was posted on Reclamation's project Web site on June 15, 2007 and is composed of operational elements from the action alternatives identified and analyzed in the Draft EIS.

The Preferred Alternative is the most reasonable and feasible alternative; all environmental effects of this alternative, as well as the No Action Alternative and the remaining four action alternatives have been fully analyzed in the Final EIS. The identified environmental effects of the Preferred Alternative are well within the range of anticipated effects of the alternatives presented in the Draft EIS and do not affect the environment in a manner not already considered in the Draft EIS.

Reclamation identified the Preferred Alternative and the Conservation Before Shortage Alternative as the environmentally preferred alternatives, as provided in 50 CFR 1505.2. The combination of the ICS mechanism and the coordinated operations between Lake Powell and Lake Mead maintains and enhances water supply and environmental benefits at both reservoirs. In addition, these alternatives strike an appropriate balance between the storage of water for future deliveries and the lack of disruption of near-term water deliveries.

Reclamation selected from among the four key operational elements disclosed in the Draft EIS to formulate the Preferred Alternative. Reclamation has determined that the four operational elements selected under this alternative best meet all aspects of the purpose and need of the proposed federal action.

A. No Action Alternative

The No Action Alternative represents a projection of future conditions that could occur during the life of the proposed federal action without an action alternative being implemented. It provides a baseline for comparison of each of the action alternatives.

Pursuant to LROC, the Secretary makes a number of determinations at the beginning of each operating year through the development and execution of the AOP, including the water supply available to users in the Lower Basin and the annual release from Lake Powell. However, the LROC currently does not include specific guidelines for such determinations. Furthermore, there is no actual operating experience under low reservoir conditions, i.e., there has never been a shortage determination in the Lower Basin. Therefore, in the absence of specific guidelines, the outcome of the annual determination in any particular year in the future cannot be precisely known. However, a reasonable representation of future conditions under the No Action Alternative is needed for comparison to each action alternative. The modeling assumptions used for this representation are consistent with the assumptions used in previous environmental compliance documents for the ISG, the Colorado River Water Delivery Agreement, and the Lower Colorado River Multi-Species Conservation Program (LCR MSCP). However, the assumptions used in the No Action Alternative are not intended to limit or predetermine these decisions in any future AOP determination.

B. Basin States Alternative

The Basin States Alternative was developed by the Basin States and proposes a coordinated operation of Lake Powell and Lake Mead that would minimize shortages in the Lower Basin and avoid risk of curtailments of Colorado River water use in the Upper Basin. This alternative includes shortages to conserve reservoir storage; coordinated operations of Lake Powell and Lake Mead determined by specified reservoir conditions; a mechanism for the creation, accounting, and delivery of conserved system and non-system water (ICS); and a modification and extension of the ISG through 2026.

C. Conservation Before Shortage Alternative

The Conservation Before Shortage Alternative was developed by a consortium of environmental NGOs, and includes voluntary, compensated reductions (shortages) in water use to minimize involuntary shortages in the Lower Basin and to avoid risk of curtailments of Colorado River water use in the Upper Basin. This alternative includes voluntary shortages prior to involuntary shortages; coordinated operations of Lake Powell and Lake Mead determined by specified reservoir conditions; an expanded ICS mechanism for the creation, accounting, and delivery of conserved system and non-system water, including water for environmental uses; and modification and extension of the ISG through 2026. There are two aspects of the Conservation Before Shortage proposal that are unique to the Conservation Before Shortage Alternative: A funding mechanism for the voluntary conservation program, and a recommendation that a portion of the conserved water be used to benefit the environment. However, as noted in the Final EIS, the viability of the Conservation Before Shortage program funding proposal is not known at this time. The Department currently does not have the authority to implement all facets of this proposal and additional legislation would be necessary to gain such authority.

D. Water Supply Alternative

The Water Supply Alternative maximizes water deliveries at the expense of retaining water in storage in the reservoirs for future use. This alternative would reduce water deliveries only when insufficient water to meet entitlements is available in Lake Mead. When reservoir elevations are relatively low, Lake Powell and Lake Mead would share water (''balance contents''). This alternative does not include a mechanism for the creation, accounting, and delivery of conserved system and non-system water in Lake Mead. The existing ISG would be extended through 2026.

E. Reservoir Storage Alternative

The Reservoir Storage Alternative was developed in coordination with the cooperating agencies and other stakeholders, primarily Western and the NPS. This alternative would keep more water in storage in Lake Powell and Lake Mead by reducing water deliveries and by increasing shortages to retain more water in storage and thereby, benefit power and recreational interests. This alternative includes larger, more frequent shortages that serve to conserve reservoir storage; coordinated operations of Lake Powell and Lake Mead determined by specified reservoir conditions (more water would be held in Lake Powell than under the Basin States Alternative); and an expanded mechanism for the creation, accounting, and delivery of conserved system and non-system water in Lake Mead. The existing ISG would be terminated after 2007.

F. Preferred Alternative

The Preferred Alternative incorporates operational elements identified in the Basin States and Conservation Before Shortage alternatives. This alternative includes shortages to conserve reservoir storage and a coordinated operation of Lake Powell and Lake Mead determined by specified reservoir conditions that would minimize shortages in the Lower Basin and avoid risk of curtailments of use in the Upper Basin; and also adopts the ICS mechanism for promoting water conservation in the Lower Basin. It is anticipated that the maximum cumulative amount of ICS would be 2.1 maf pursuant to Section XI.D. of this ROD; however, the potential effects of a maximum cumulative amount of ICS of up to 4.2 maf have been analyzed in the Final EIS. This alternative also includes modification and extension of the ISG through 2026.[1]

V. Basis for Decision

In 2005, tensions among the Basin States brought the basin closer to multi-state and inter-basin litigation than perhaps any time since the adoption of the Compact. On May 2, 2005, in a decision of the Secretary, the Department outlined a number of fundamental considerations that would guide the NEPA process that concludes with the adoption of this ROD. These considerations include:

- Concern regarding the impacts of drought throughout the Colorado River Basin;
- A recognition of the recent history of close and productive working relationships among the Basin States;
- A belief that discussions among the states could facilitate the development of additional tools to improve coordinated operation of Colorado River reservoirs;
- A preference that operational strategies not be developed in the AOP setting, which is used by the Department to annually implement operational strategies that are developed through separate, public processes;
- An intention to develop operational tools that would avoid unnecessary, protracted or destabilizing litigation; and
- A commitment to continue to consult with and work with all stakeholders in the Basin.

In light of the severity of the drought, the Department announced its intention to complete the development of drought and low-reservoir operational tools by December 2007, and to do so through an open, public process. In closing, the Secretary expressed the opinion that ''all parties must work together to find creative solutions that will conserve reservoir storage and help to minimize the adverse effects of drought in the Colorado River Basin.''

The fundamental basis for this decision is that each of the above foundational considerations have been honored and achieved through the development of a consensus seven-state recommendation that has been incorporated, as appropriate, into the Preferred Alternative adopted herein today.

The Department selected the Preferred Alternative based on the Department's determination that it best meets all aspects of the purpose and need for the federal action, including: The need to remain in place for the extended period of the interim Guidelines; the desirability of the alternative based on the facilitated consensus recommendation from the Basin States; the likely durability of the mechanisms adopted in the Preferred Alternative in light of the extraordinary efforts that the Basin States and water users have undertaken to develop implementing agreements that will facilitate the water management tools (shortage sharing, forbearance, and conservation efforts)

[1] It is anticipated that elements of the decision adopted by this ROD will be implemented through a number of agreements. The following agreements are anticipated to be executed at or about the time of issuance of this ROD:

- Delivery Agreement between the United States and Imperial Irrigation District (IID)
- Delivery Agreement between the United States and The Metropolitan Water District of Southern California (MWD)
- Delivery Agreement between the United States, Southern Nevada Water Authority (SNWA) and the Colorado River Commission of Nevada (CRCN)
- Funding and Construction of the Lower Colorado River Drop 2 Storage Reservoir Project Agreement among the United States, SNWA, and CRCN
- Lower Colorado River Basin Intentionally Created Surplus Forbearance Agreement among the Arizona Department of Water Resources, the Southern Nevada Water Authority, CRCN, the Palo Verde Irrigation District (PVID), IID, Coachella Valley Water District (CVWD), MWD, and the City of Needles
- California Agreement for the Creation and Delivery of Extraordinary Conservation Intentionally Created Surplus among the PVID, IID, CVWD, MWD and the City of Needles.

identified in the Preferred Alternative; and the range of elements in the alternative that will enhance the Secretary's ability to manage the Colorado River reservoirs in a manner that recognizes the inherent tradeoffs between water delivery and water storage.

Importantly for the long-term stable management of the Colorado River, adoption of this decision activates a legal agreement among the Basin States that contains a critically important provision: The Basin States have agreed to mandatory consultation provisions to address future controversies on the Colorado River through consultation and negotiation, as a requirement, before resorting to litigation. With respect to the various interests, positions and views of each of the seven Basin States, this provision adds an important new element to the modern evolution of the legal framework for the prudent management of the Colorado River.

In recent years, in a number of settings, and facing a broad range of water management challenges, the Department has highlighted the important role of the Basin States in the statutory framework for administration of Basin entitlements and the significance that a seven-state consensus represents. Multi-state consensus is a rare and unique achievement that should continue to be recognized and facilitated.

With respect to the information within the scope of the proposed action, Reclamation concluded that the Preferred Alternative is a reasonable alternative and fully analyzed the environmental effects of this alternative in the Final EIS. The identified environmental effects of the Preferred Alternative are well within the range of anticipated effects of the alternatives presented in the Draft EIS and do not affect the environment in a manner not already considered in the Draft EIS. Thus, based on all available information, this alternative is the most reasonable, feasible, implementable, and durable alternative.

Drought is not limited to the Southwest, nor are interstate tensions over water management. As a final basis for this decision, the Department believes that a model for interstate cooperation can be found in the elements of the Preferred Alternative adopted today.

VI. Public Response to the Final Environmental Impact Statement

Following the **Federal Register** Notice of Availability of the Final EIS on November 2, 2007, and as of 8 p.m. (EST), Tuesday, December 11, 2007, Reclamation received six comment letters on the Final EIS and the updated draft Interim Operational Guidelines for Lake Powell and Lake Mead posted November 16, 2007 on Reclamation's project Web site. After appropriate consideration, the Department concludes that the comments received do not identify or raise any significant issues that would require supplementing the Final EIS. The major issues noted in the comment letters are summarized below:

The Basin States submitted a letter expressing their appreciation to Reclamation and Department staff for their diligence in working with the Basin States and others in developing the draft Guidelines for Lake Powell and Lake Mead; and they further stated that the adoption of the Guidelines ''represent a significant and historic milestone, reflecting the continuation of the consultative approach to river management between the federal government and affected states on the Colorado River.''

The San Diego County Water Authority submitted a comment letter fully supporting the statements in the Basin States' letter to the Secretary on the Final EIS. The Authority also noted their concern that the proposed implementation of Guidelines, specifically ICS, should not inadvertently conflict with the implementation of certain terms of October 10, 2003 Allocation Agreement. The Department agrees that the creation, release, or delivery of ICS or the declaration of an ICS Surplus Condition in a calendar year shall not constitute a determination by the Secretary of the existence of surplus Colorado River water in that calendar year for the purposes of Section 9.2.2 of the Allocation Agreement Among the United States of America, The Metropolitan Water District of Southern California, Coachella Valley Water District, Imperial Irrigation District, San Diego County Water Authority, the La Jolla, Pala, Pauma, Rincon and San Pasqual Bands of Mission Indians, the San Luis Rey River Indian Water Authority, the City of Escondido and Vista Irrigation District, dated October 10, 2003. This understanding has also been expressly stated in the proposed Delivery Agreements for IID and MWD (Section V of this ROD).

The EPA submitted a comment letter noting it had no objections to the proposed project and some of the details of the Final EIS pertinent to their views. Further, EPA encouraged Reclamation to ''play an active role in facilitating comprehensive water management among all water sectors in the Basin.'' Reclamation intends to continue to pursue its mission in the 17 western states, and in particular on the Colorado River, to assist in meeting the increasing water demands of the West while protecting the environment and the public's investment in these structures. Reclamation places great emphasis on fulfilling its water delivery obligations, water conservation, water recycling and reuse, and developing partnerships with our customers, states, and Native American Tribes, and in finding ways to bring together the variety of interests to address the competing needs for our limited water resources.

The Colorado River Board of California submitted comments on behalf of its member agencies on the updated draft Guidelines. The majority of the comments were editorial and to the extent the individual comments improved the clarity of the Guidelines they were incorporated into the Guidelines found in Section XI of this ROD.

A comment letter dated November 12, 2007, was received from a single member of the public and noted his concern that the terms of the Biological Opinion (BO) should be met and that impacts due to climate change on ''listed fish and birds'' are addressed. FWS issued the BO on the Preferred Alternative described in this ROD on December 12, 2007. Reclamation has agreed to implement Conservation measures to benefit the listed species addressed in the BO and comply with the terms and conditions of the incidental take statement in the BO. Acknowledging the potential for impacts due to climate change and increased hydrologic variability, the Secretary proposes that the Guidelines be interim in duration and extend through 2026, providing the opportunity to gain valuable operating experience for the management of Lake Powell and Lake Mead, particularly for low reservoir conditions, and improve the basis for making additional future operational decisions, whether during the Interim Period (Section 8 of the Guidelines) or thereafter. In addition, the Preferred Alternative has been crafted to include operational elements that would respond if potential impacts of climate change and increased hydrologic variability are realized. In particular, the Preferred Alternative includes a coordinated operation element that allows for the adjustment of Lake Powell's release to respond to low reservoir storage conditions in Lake Powell or Lake Mead as described in Section 2.7 and Section 2.3 in the Final EIS. In addition, the Preferred

Alternative will enhance conservation opportunities in the Lower Basin and the retention of water in Lake Mead through adoption of the ICS mechanism. Finally, the Preferred Alternative includes a shortage strategy at Lake Mead that would result in additional shortages being considered, after appropriate consultation, if Lake Mead elevations drop below 1,025 feet mean sea level (msl).

The Defenders of Wildlife submitted a comment letter dated December 11, 2007, on behalf of their organization, the National Wildlife Federation, the Pacific Institute, and the Sierra Club regarding the updated draft Guidelines. The comments are limited to information that was published in Appendix S of the Final EIS dated November 2, 2007. The letter offers a number of clarifying comments, raises concerns regarding the appropriate mechanisms for consultation between federal and non-federal parties, and raises detailed comments regarding the implementation of the ICS and Developed Shortage Supply (DSS) components of the Guidelines. Reclamation thoroughly reviewed the comments submitted and concluded that no changes to the Guidelines were necessary. With respect to the issues regarding consultation, Reclamation will continue to meet all legal obligations for appropriate consultation with non-federal parties and believes that the commitments for continued consultation with the Basin States can be implemented in a manner consistent with the provisions of applicable federal law. Moreover, Reclamation believes that some of the concerns identified in this comment letter have been addressed by Section 7.D of the updated draft Guidelines posted on December 10, 2007, which provides that the Lower Colorado Regional Director will establish procedures for the implementation of ICS and DSS after issuance of this ROD. Reclamation will continue to work closely with all stakeholders in the development of ICS and DSS procedures and in the implementation and administration of the Guidelines.

VII. Refinement of Operational Guidelines for the Preferred Alternative in Response to Public Comments

Hydrologic modeling of the Colorado River system was used to determine the potential hydrologic effects of each of the alternatives and also provided the basis for analyzing the potential effects on other environmental resources (such as recreation, biology, and energy, etc.). Nearly all modeling assumptions were common to each alternative; only the assumptions specific to each alternative were different. This approach allowed a relative comparison of the potential effects of each alternative compared to the No Action Alternative and lead to the identification of the Preferred Alternative.

Historically, the determination of the annual release volume for Lake Powell could change on a monthly basis throughout the water year. This approach afforded great flexibility to respond to changing monthly runoff forecasts yet was practical to implement since there were effectively only two operational tiers (a minimum objective release of 8.23 maf per year or releases greater due to equalization or spill avoidance). The annual release volume for Lake Mead, however, was essentially determined on an annual basis primarily to provide a greater degree of certainty to water users with respect to the water supply in the Lower Basin. The modeled operation of Lake Powell and Lake Mead for all alternatives in the Final EIS was consistent with this past operational experience and provided a valid basis for comparison.

However, given the more complicated proposed operation for Lake Powell under all of the action alternatives, Reclamation conducted additional investigations and subsequently refined the operational guidelines to include a combined monthly/annual methodology to determine the annual release volume for Lake Powell. This methodology consists of a January 1 determination of the release volume with appropriate April adjustments to those volumes, and providing the necessary flexibility to respond to changing inflow forecasts while ensuring that the operation does not result in excessive changes in monthly releases from Lake Powell.

In addition, comments were also received in both written and oral form from representatives of the Basin States with respect to the modeling assumptions used for the Basin States Alternative and the Preferred Alternative, reflected in Appendix S of the Final EIS. Specifically, the comments were in regard to the coordinated operation of Lake Powell and Lake Mead when Lake Powell is relatively high and operating near or in the equalization tier. A concern was identified where the proposed operation might not respond effectively when Lake Powell is relatively high, Lake Mead is relatively low, and a reasonably high inflow forecast occurs. Reclamation conducted additional investigations to identify approaches to ensure some additional water is released from Lake Powell when this situation arises.

Reclamation refined the proposed operational guidelines to incorporate these changes (contained in Section 6, 7, and 8 of the Guidelines) and published those refinements on the project Web site on November 16, 2007. An evaluation concluded that these refinements to the proposed Guidelines would not result in substantial changes with regard to the environmental effects and fall within the impacts already analyzed in the Final EIS.

VIII. Environmental Impacts and Implementation of Environmental Commitments

Hydrologic modeling of the Colorado River system was conducted to determine the potential hydrologic effects of the alternatives. Modeling provided projections of potential future Colorado River system conditions (*i.e.*, reservoir elevations, reservoir releases, river flows) for comparison of those conditions under the No Action Alternative to conditions under each action alternative. Due to the uncertainty with regard to future inflows into the system, multiple simulations were performed in order to quantify the uncertainties of future conditions and as such, the modeling results are typically expressed in probabilistic terms.

Hydrologic modeling also provided the basis for the analysis of the potential effects of each alternative on other environmental resources. The Final EIS evaluated 14 resource areas: Hydrologic resources (including reservoir storage and releases, groundwater, and water deliveries), water quality, air quality, visual resources, biological resources (including vegetation and wildlife and special status species), cultural resources, Indian trust assets, electrical power resources, recreation (including shoreline facilities, boating and navigation, and sport fish populations), transportation, socioeconomics (including employment, income and tax revenue, municipal and industrial water users, and recreation economics), environmental justice, indirect effects of the ICS mechanism, and climate change considerations. The potential effects to specific resources were identified and analyzed for each action alternative and compared to the potential effects to that resource under the No Action Alternative. These comparisons are typically expressed in terms of the relative differences in probabilities between the No Action Alternative and the action alternatives.

Based on the analyses in the EIS, Reclamation determined that specific measures to avoid or mitigate environmental harm were not required,

with the exception of conservation measures for listed species as noted below. For other resource areas, the impacts of the Preferred Alternative were well within the range of the alternatives considered, and generally improved conditions compared to the No Action Alternative. For a few resource areas, the Preferred Alternative resulted in minor negative impacts compared to the No Action Alternative, and measures to avoid such impacts were determined to be unnecessary or not feasible.

A. Lower Colorado River Multi-Species Conservation Plan

It is important to note that Reclamation is already undertaking significant environmental mitigation measures on the Colorado River, including the LCR MSCP from Lake Mead to the Southerly International Boundary (SIB) with Mexico, and implementation of activities pursuant to the 1996 Glen Canyon Dam ROD for the reach of the Colorado River from Glen Canyon Dam to Lake Mead.

The LCR MSCP is a 50-year cooperative effort between federal and non-federal entities, approved by the Secretary in April 2005. This program was developed to address potential effects to listed and other selected special status species (covered species) from identified ongoing and future anticipated federal discretionary actions and non-federal activities on the lower Colorado River (covered actions). The development and implementation of shortage criteria on the lower Colorado River was one of the federal covered actions (MSCP Biological Assessment Section 2.2.2.1) included in the LCR MSCP and covered under the LCR MSCP BO (FWS 2005). The LCR MSCP BO provides Endangered Species Act (ESA) compliance for the effects of covered actions for a reduction of Lake Mead reservoir elevations to 950 feet msl and flow reductions of up to 0.845 maf from Hoover Dam to Davis Dam, 0.860 maf from Davis Dam to Parker Dam, and 1.574 maf from Parker Dam to Imperial Dam. The LCR MSCP identified, and it is mitigating for, impacts to the covered species and their habitats from the flow reduction conditions described above. These impacts included the potential loss of up to:

- 2,008 acres of cottonwood-willow habitats;
- 133 acres of marsh habitat; and
- 399 acres of backwater habitat.

To address these impacts, the LCR MSCP will:

- Restore 5,940 acres of cottonwood-willow habitat;
- Restore 512 acres of marsh habitat;
- Restore 360 acres of backwater habitat;
- Stock 660,000 razorback sucker over the term of the LCR MSCP; and
- Stock 620,000 bonytail over the term of the LCR MSCP.

In addition, these habitats will be actively managed to provide habitat values greater than those of the impacted habitats. While the LCR MSCP is geared toward special status species, it is important to understand that all species that use the habitats impacted by the LCR MSCP covered activities benefit by the conservation actions currently being carried out under the LCR MSCP.

Reclamation has reviewed the effects of the Preferred Alternative in this Final EIS and has determined that all potential effects to listed species and their habitats along the Colorado River from the full pool elevation of Lake Mead to the SIB are covered by the LCR MSCP. FWS has concurred with Reclamation's determination in a letter dated November 28, 2007.

B. Glen Canyon Dam Adaptive Management Program

The 1996 Glen Canyon Dam ROD describes detailed criteria and operating plans for Glen Canyon Dam operations and includes other management actions to accomplish this objective; among these are the Glen Canyon Dam Adaptive Management Program (AMP). The AMP provides a process for assessing the effects of Glen Canyon Dam operations on downstream resources and project benefits. The results of that assessment are used to develop recommendations for modifying Glen Canyon Dam operations and other resource management actions. This is accomplished through the Adaptive Management Work Group (AMWG), a federal advisory committee. The AMWG consists of stakeholders that include federal and state agencies, representatives of the Basin States, Indian tribes, hydroelectric power customers, environmental and conservation organizations, and recreational and other interest groups.

C. Endangered Species Act Compliance

In compliance with the ESA, Reclamation submitted a Biological Assessment (BA) to FWS on September 10, 2007 and requested formal consultation on the Preferred Alternative. Reclamation divided the analysis of potential effects on listed species into three geographic areas: Lake Powell to the upper end of Lake Mead, Lake Mead to the SIB with Mexico, and potential interdependent/interrelated effects on the Virgin and Muddy Rivers in southern Nevada. Reclamation determined the effects of the Preferred Alternative within the geographic area of the MSCP (Lake Mead to SIB with Mexico) were covered by the earlier consultation on LCR MSCP, and requested FWS' concurrence on this determination by memo dated October 26, 2007. FWS concurred with this determination by memo dated November 28, 2007. For the remainder of the action area, Reclamation determined the Preferred Alternative may affect, and is likely to adversely affect the southwestern willow flycatcher, humpback chub, and Kanab ambersnail, and that the Preferred Alternative may affect, but would not be likely to adversely affect seven other species.

FWS issued its BO for the Preferred Alternative by memo dated December 12, 2007. The BO concurred with Reclamation's ''not likely to adversely affect'' findings for the seven species addressed in the BA, and found that the adverse effects to southwestern willow flycatcher, humpback chub, and Kanab ambersnail would not jeopardize the continued existence of those species. Reclamation has included the following conservation measures for listed species in the action area as part of its proposed action:

- Nonnative Fish Control—In coordination with other Department of the Interior AMP participants and through the AMP, Reclamation will continue efforts to control both cold- and warm-water nonnative fish species in the mainstem of Marble and Grand canyons, including determining and implementing levels of nonnative fish control as necessary. Control of these species using mechanical removal and other methods will help to reduce this threat.
- Humpback Chub Refuge—Reclamation will assist FWS in development and funding of a broodstock management plan and creation and maintenance of a humpback chub refuge population at a federal hatchery or other appropriate facility by providing expedited advancement of $200,000 in funding to the FWS during calendar year 2008; this amount shall be funded from, and within, the amount identified in the 2005 LCR MSCP BO. Creation of a humpback chub refuge will reduce or eliminate the potential for a catastrophic loss of the Grand Canyon population of humpback chub by providing a permanent source of genetically representative stock for repatriating the species.

• Genetic Biocontrol Symposium—Reclamation will transfer up to $20,000 in fiscal year 2008 to FWS to help fund an international symposium on the use and development of genetic biocontrol of nonnative invasive aquatic species which is tentatively scheduled for January 2009. Although only in its infancy, genetic biocontrol of nonnative species is attracting worldwide attention as a potential method of controlling aquatic invasive species. Helping fund an effort to bring researchers together will further awareness of this potential method of control and help mobilize efforts for its research and development.

• Sediment Research—In coordination with other Department of the Interior AMP participants and through the AMP, Reclamation will monitor the effect of sediment transport on humpback chub habitat and will work with the Grand Canyon Monitoring and Research Center to develop and implement a scientific monitoring plan acceptable to FWS. Although the effects of dam operation-related changes in sediment transport on humpback chub habitat are not well understood, humpback chub are known to utilize backwaters and other habitat features that require fine sediment for their formation and maintenance. Additional research will help clarify this relationship.

• Parasite Monitoring—In coordination with other Department of the Interior AMP participants and through the AMP, Reclamation will continue to support research on the effects of Asian tapeworm on humpback chub and potential methods to control this parasite. Continuing research will help better understand the degree of this threat and the potential for management actions to minimize it.

• Monitoring and Research—Through the AMP, Reclamation will continue to monitor Kanab ambersnail and its habitat in Grand Canyon and the effect of dam releases on the species, and Reclamation will also continue to assist FWS in funding morphometric and genetic research to better determine the taxonomic status of the subspecies.

• Kanab Ambersnail Monitoring and Research—Through the AMP, Reclamation will continue to monitor Kanab ambersnail and its habitat in Grand Canyon and the effect of dam releases on the species, and Reclamation will also continue to assist FWS in funding morphometric and genetic research to better determine the taxonomic status of the subspecies.

• Southwestern Willow Flycatcher Monitoring and Research—Through the AMP, Reclamation will continue to monitor southwestern willow flycatcher and its habitat and the effect of dam releases on the species throughout Grand Canyon and report findings to FWS, and will work with NPS and other AMP participants to identify actions to conserve the flycatcher.

IX. Implementing the Decision

A. Setting

Against the backdrop of prolonged drought, in 2005, with reservoir elevations dropping rapidly, the Department was faced with the challenge of making operational decisions regarding modified operations of Glen Canyon Dam and Hoover Dam. One of the challenges that the Department faced was that there were not detailed, objective guidelines to determine how the operation of the two reservoirs would be modified in drought and other low-reservoir conditions.

After receiving conflicting recommendations from representatives of the four Upper Division and the three Lower Division states, the Secretary issued a decision on May 2, 2005, charging Reclamation with the development of operational tools that can continue to assure productive use of the Colorado River into the future, while avoiding unnecessary, protracted or destabilizing litigation.

More than two years later, the drought conditions have continued and the need for detailed operational guidelines is even more necessary today as compared with mid-2005. Reclamation has conducted an extensive public process, seeking input from state, tribal and local governments, along with input from members of environmental organizations and members of the general public. These Guidelines represent the Department's determination as to the most appropriate set of guidelines to adopt at this stage of the ongoing drought.

B. Scope of Guidelines

These Guidelines are intended to be applied each year during the Interim Period with respect to the operation and management of the waters of the Colorado River stored in Lake Powell and Lake Mead. The relevant sections of these Guidelines address the following:

• Determine those circumstances under which the Secretary would reduce the annual amount of water available for consumptive use from Lake Mead to the Colorado River Lower Division states below 7.5 maf (a ''Shortage'') pursuant to Article II(B)(3) of the Consolidated Decree;

• Define the coordinated operation of Lake Powell and Lake Mead to provide improved operation of these two reservoirs, particularly under low reservoir conditions;

• Allow for the storage and delivery, pursuant to applicable federal law, of conserved Colorado River system and non-system water in Lake Mead to increase the flexibility of meeting water use needs from Lake Mead, particularly under drought and low reservoir conditions; and,

• Determine those conditions under which the Secretary may declare the availability of surplus water for use within the Lower Division states. The proposed federal action would modify the substance of the existing ISG and would change the term of the ISG from 2016 through 2026.

X. Operational Setting

A. Criteria for the Coordinated Long-Range Operation of Colorado River Reservoirs

Section 602 of the CRBPA required the Secretary to propose and adopt criteria for the coordinated long-range operation of the reservoirs constructed and operated under the authority of the Colorado River Storage Project Act of 1956, the Boulder Canyon Project Act of 1928 (BCPA), and the Boulder Canyon Project Adjustment Act. The Secretary adopted such ''Long-Range Operating Criteria'' (LROC) in 1970 and has been operating the Colorado River consistent with the LROC since 1970. In 2005, the Secretary approved minor changes to the text of the LROC. (70 FR 15873, Mar. 29, 2005). The Secretary identified the bases for the limited changes as: (1) Specific change in federal law applicable to the Operating Criteria, (2) language in the current text of the Operating Criteria that was outdated, and (3) specific modifications to Article IV(b) of the Operating Criteria that reflect actual operating experience.

It is the Department's decision that these Guidelines implement the LROC on an annual basis through the Interim Period and that the operation of the relevant Colorado River reservoirs be documented in each year's AOP (Subsection C, below). See also Section 7 of the Guidelines for further description of the relationship between the LROC and these Guidelines.

B. Interim Surplus Guidelines

Beginning in 1999, the Secretary determined that there was a need for detailed, objective guidelines to assist in the determination of availability of water in excess of 7.5 maf per year to water users in the three Lower Division states of Arizona, California, and Nevada. One of the important issues facing the Department at that time was

the question of whether to modify the LROC to address determination of a Surplus Condition or whether to adopt guidelines that would implement the LROC with detailed provisions.

At the time, the Department sought public input on the concept of modifying Article III(3)(b) of the LROC during the process that led to adoption of the ISG. See 64 FR 27010 (May 18, 1999). After reviewing the public comments received, the Department announced its intention to adopt ''interim implementing criteria pursuant to Article III(3) of the Long-Range Operating Criteria'' rather than modifying the actual text of the LROC. See 64 FR 68373 (December 7, 1999). This approach was carried through and set forth in the ROD for the ISG adopted by the Secretary. See 66 FR 7772, 7780 at Section XI(5) (''These Guidelines, which shall implement and be used for determinations made pursuant to Article III(3)(b) of the [Operating Criteria] * * * are hereby adopted * * *''). See also discussion at 70 FR 15878 (March 29, 2005) (review of LROC).

It is the Department's decision in adopting these Guidelines to continue the approach initially adopted in the ISG, and accordingly is not modifying the LROC at this time. Instead, the determinations made under these interim Guidelines will implement the relevant provisions of Article II (Lake Powell) and Article III (Lake Mead) during the Interim Period, as defined in Section 7, herein.

C. Annual Operating Plan for Colorado River Reservoirs

Section 602(b) of the CRBPA of 1968 requires that the Secretary transmit to the Congress and to the Governors of the Basin States, by January 1st of each year, a report describing the actual operation under the LROC for the preceding compact water year and the projected operation for the current year. This report is commonly referred to as the ''Annual Operating Plan'' or the ''AOP.''

In 1992, in the Grand Canyon Protection Act, Congress required that, in preparing the 602(b) AOP, the Secretary shall consult with the Governors of the Basin States and with the general public, including representatives of academic and scientific communities, environmental organizations, the recreation industry; and contractors for the purpose of federal power produced at Glen Canyon Dam.

Each year the Secretary implements the provisions of the 1968 and 1992 statutes regarding the projected operation of Colorado River reservoirs and stakeholder consultation through the Colorado River Management Work Group. This process involves appropriate consultation prior to finalization of the proposed AOP. The AOP is used to memorialize operational decisions that are made pursuant to individual federal actions (e.g., ISG, 1996 Glen Canyon Dam ROD, this ROD). Thus, the AOP serves as a single, integrated reference document required by section 602(b) of the CRBPA of 1968 regarding past and anticipated operations.

It is the Department's decision that these Guidelines be implemented on an annual basis through the Interim Period and documented in each year's AOP. This ROD addresses annual volumes of releases from Glen Canyon Dam and Hoover Dam. Accordingly, this ROD does not modify the authority of the Secretary to determine monthly, daily, hourly, or instantaneous releases from Glen Canyon Dam and Hoover Dam. See Section 7 of the Guidelines for further description of the relationship between the AOP and these Guidelines.

XI. Conditions of Implementation

A. Forbearance

1. Role of Forbearance Agreements Within the Context of the Law of the River and Relationship to Intentionally Created Surplus (ICS)

For the purposes of these Guidelines, the term ''forbearance agreements'' refers to agreements that a party who has a right to surplus Colorado River water could enter into that would provide that party's agreement to forgo (or not exercise) its right to surplus Colorado River water. In any such agreements, the party agrees to ''forbear'' or refrain from exercising its right to surplus Colorado River water under the specified terms and conditions of the applicable agreement. Through such agreements, increased flexibility of Colorado River water management can be achieved—resulting in greater conservation of water than would otherwise be accomplished.

In Years in which the Secretary determines that sufficient Mainstream water is available for delivery to satisfy annual consumptive use in the Lower Division states in excess of 7.5 maf, Article II(B)(2) of the Consolidated Decree directs the Secretary to apportion such surplus Mainstream water 50% for use in California, 46% for use in Arizona, and 4% for use in Nevada. The Boulder Canyon Project Act and Articles II(B)(2) and II(B)(6) of the Consolidated Decree, taken together, authorize the Secretary to apportion surplus water and to deliver one Lower Division state's unused apportionment for use in another Lower Division state. Pursuant to such authority and for the purpose of increasing the efficiency, flexibility, and certainty of Colorado River management and thereby helping satisfy the current and projected regional water demands, the Secretary determined that it is prudent and desirable to promulgate guidelines to establish a procedural framework for facilitating the creation and delivery of ICS within the Lower Basin.

In the absence of forbearance, surplus water is apportioned for use in the Lower Division states according to the specific percentages provided in Article II(B)(2) of the Consolidated Decree discussed above. In order to allow for management flexibility, the seven Colorado River Basin States have recommended an operational program for the creation and delivery of ICS. In furtherance of this recommendation, numerous major water users within the Lower Basin have identified their willingness, under specified circumstances, to participate in such an operational program. These parties have submitted a draft ''Forbearance Agreement,'' as preliminarily approved by the parties, as part of a package of documents (Appendix J) submitted for consideration by the Secretary as a necessary element to enable implementation of the operations contemplated by the Basin States Alternative. The Secretary has developed a Preferred Alternative based on this information, as well as other information submitted during the NEPA process.

The parties to the Forbearance Agreement have indicated that they intend that the Agreement provide the appropriate legal mechanism to achieve successful implementation of this element of the Preferred Alternative. The parties have indicated that among the conditions on their forbearance, they will forbear only with respect to a specified ICS volume and only to ICS created by projects described in exhibits attached to the Forbearance Agreement or added thereto by written consent of all parties. Given the voluntary nature of the forbearance concept, it is appropriate for the parties to clearly identify the limited conditions upon which their forbearance is granted.

Through adoption and implementation of these Guidelines, the Secretary will only approve the creation, delivery and use of ICS in a manner that is fully consistent with the provisions of the Consolidated Decree, including Articles II(B)(2) and II(B)(6) therein. The Secretary will require forbearance by the State of Arizona, the

Palo Verde Irrigation District, the Imperial Irrigation District, the Coachella Valley Water District, The Metropolitan Water District of Southern California, the City of Needles, and other California entities as appropriate, the Southern Nevada Water Authority, and the Colorado River Commission of Nevada for implementation of this element of these Guidelines (regarding ICS). If, in the opinion of the Secretary, the State of Arizona or the Palo Verde Irrigation District, the Imperial Irrigation District, the Coachella Valley Water District, The Metropolitan Water District of Southern California, the City of Needles, or other California entities as appropriate, the Southern Nevada Water Authority, or the Colorado River Commission of Nevada, unreasonably withhold forbearance, the Secretary may, after consultation with the Basin States, modify these Guidelines. Moreover, the Secretary will ensure that implementation of the ICS mechanism does not infringe on the rights of any third party who is a Contractor and who is not a party to the Forbearance Agreement.

2. Monitoring Implementation

Under these Guidelines, Colorado River water will continue to be allocated for use among the Lower Division states in a manner consistent with the provisions of the Consolidated Decree. It is expected that Lower Division states and individual Contractors for Colorado River water have or will adopt arrangements that will affect utilization of Colorado River water during the Interim Period. It is expected that water orders from Colorado River Contractors will be submitted to reflect forbearance arrangements by Lower Division states and individual Contractors. The Secretary will deliver Colorado River water to Contractors in a manner consistent with these arrangements, provided that any such arrangements are consistent with the BCPA, the Consolidated Decree and do not infringe on the rights of third parties. Surplus water will only be delivered to entities with contracts for surplus water. ICS will be delivered pursuant to Section 3.C. of these Guidelines and a Delivery Agreement.

B. Delivery Agreement

Article II(B)(5) of the Consolidated Decree in Arizona v. California states that mainstream Colorado River water shall be released or delivered to water users in Arizona, California, and Nevada ''only pursuant to valid contracts therefore made with such users by the Secretary of the Interior, pursuant to Section 5 of the Boulder Canyon Project Act or any other applicable federal statute.'' Section 5 of the Boulder Canyon Project Act authorizes the Secretary to enter into such contracts.

Numerous Contractors in Arizona, California, and Nevada now hold contracts which entitle them to the delivery of Colorado River water under the circumstances and in the priorities specified in the individual contracts. Contracts entered into prior to the adoption of these Guidelines do not, however, expressly address circumstances in which ICS or DSS might be created or delivered.

To ensure the requirements of Section 5 of the Boulder Canyon Project Act and Article II(B)(5) of the Consolidated Decree are complied with, and to reduce the possibility of ambiguity, the Secretary anticipates entering into delivery contracts with any person or persons intending to create ICS or DSS. Such contracts are expected to address the requirements set forth in the Guidelines for the approval of ICS or DSS plans, the certification and verification of the ICS or DSS created under the plans, the ordering and delivery of ICS or DSS, the accounting for ICS or DSS in the annual report filed with the U.S. Supreme Court in accordance with Article V of the Consolidated Decree, and such other matters as may bear on the delivery of the ICS or DSS, as for example the point of delivery and place of use, if not already provided for under existing contracts.

C. Mexico

The United States delivers an annual allotment of Colorado River water to Mexico pursuant to the treaty between the United States of America and Mexico relating to the utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande, signed February 3, 1944, and its supplementary protocol signed November 14, 1944. In adopting these Guidelines the Department of the Interior is making a final agency action regarding the operation of Lake Powell and Lake Mead, and the delivery of water to water users in the United States, in response to the worst drought in the Basin in over a century of recordkeeping.

Prior to adopting these Guidelines, the Department provided information on the proposed action to the USIBWC, and met with representatives of the Mexican Section of the IBWC and the Mexican Government. The Department has considered the information provided by the USIBWC prior to adopting these Guidelines, including information representing the views of the Government of Mexico. The USIBWC has advised that the Department may proceed with planning and implementation activities for these Guidelines with the understanding that these Guidelines are not intended to constitute an interpretation or application of the 1944 Treaty or to represent current United States policy or a determination of future United States policy regarding deliveries to Mexico.

The Department notes the intention of the Governments of the United States and Mexico, memorialized in a Joint Statement issued August 13, 2007, to cooperate and collaborate regarding issues related to the lower portion of the Colorado River under the auspices of the IBWC.

D. Intentionally Created Surplus

1. Findings

ICS may be created through projects that create water system efficiency or extraordinary conservation or tributary conservation or the importation of non-Colorado River System water into the Mainstream. ICS is consistent with the concept that entities may take actions to augment storage of water in the lower Colorado River Basin. The ICS shall be delivered to the Contractor that created it pursuant to both Articles II(B)(2) and II(B)(6) of the Consolidated Decree and Forbearance Agreements. Implementation of these Guidelines for ICS is conditioned upon execution of Forbearance Agreements and Delivery Agreements as further provided for in these Guidelines.

2. Purposes

The primary purposes of ICS are to: (a) Encourage the efficient use and management of Colorado River water; and to increase the water supply in Colorado River System reservoirs, through the creation, delivery and use of ICS; (b) help minimize or avoid shortages to water users in the Lower Basin; (c) benefit storage of water in both Lake Powell and Lake Mead; (d) increase the surface elevations of both Lake Powell and Lake Mead to higher levels than would have otherwise occurred; and (f) assure any Contractor that invests in conservation or augmentation to create ICS that no other Contractor will claim the ICS created by the Contractor pursuant to an approved plan by the Secretary.

3. Quantities

The maximum quantities of Extraordinary Conservation ICS that may be accumulated in all ICS Accounts, at any time, upon the effective date of these Guidelines is

limited to the amounts provided in Section 3.B.5. of these Guidelines. The maximum quantities of Extraordinary Conservation ICS that may be created and/or delivered in any given Year are also limited to the amounts provided in Sections 3.B.4. and 3.C.4., respectively. As described in the Final EIS, Reclamation has analyzed ICS amounts in excess of the amounts approved by this Record of Decision and provided in these Guidelines. Any decision by the Secretary to increase the amounts in excess of the amounts provided in these Guidelines would be based on actual operating experience and would require modification of these Guidelines after consultation with the Basin States.

E. Relationship With Existing Law

These Guidelines are not intended to, and do not:

1. Guarantee or assure any water user a firm supply for any specified period;

2. Change or expand existing authorities under applicable federal law, except as specifically provided herein with respect to determinations under the Long-Range Operating Criteria and administration of water supplies during the effective period of these Guidelines;

3. Address intrastate storage or intrastate distribution of water, except as may be specifically provided by Lower Division states and individual Contractors for Colorado River water who may adopt arrangements that will affect utilization of Colorado River water during the effective period of these Guidelines;

4. Change the apportionments made for use within individual States, or in any way impair or impede the right of the Upper Basin to consumptively use water available to that Basin under the Colorado River Compact;

5. Affect any obligation of any Upper Division state under the Colorado River Compact;

6. Affect any right of any State or of the United States under Sec. 14 of the Colorado River Storage Project Act of 1956 (70 Stat. 105); Sec. 601(c) of the Colorado River Basin Project Act of 1968 (82 Stat. 885); the California Limitation Act (Act of March 4, 1929; Ch. 16, 48th Sess.); or any other provision of applicable federal law;

7. Affect the rights of any holder of present perfected rights or reserved rights, which rights shall be satisfied within the apportionment of the State within which the use is made, and in the Lower Basin, in accordance with the Consolidated Decree; or

8. Constitute an interpretation or application of the 1944 Treaty between the United States and Mexico Relating to the Utilization of the Waters of the Colorado and Tijuana Rivers and of the Rio Grande (1944 Treaty) or to represent current United States policy or a determination of future United States policy regarding deliveries to Mexico. The United States will conduct all necessary and appropriate discussions regarding the proposed federal action and implementation of the 1944 Treaty with Mexico through the International Boundary and Water Commission (IBWC) in consultation with the Department of State.

F. Definitions

For purposes of these Guidelines, the following definitions apply:

1. ''24-Month Study'' refers to the operational study that reflects the current Annual Operating Plan that is updated each month by Reclamation to project future reservoir contents and releases. The projections are updated each month using the previous month's reservoir contents and the latest inflow and water use forecasts. In these Guidelines, the term ''projected on January 1'' shall mean the projection of the January 1 reservoir contents provided by the 24-Month Study that is conducted in August of the previous Year.

2. ''AOP'' shall mean the Annual Operating Plan for the Colorado River System Reservoirs.

3. ''Active Storage'' shall mean the amount of water in reservoir storage, exclusive of bank storage, which can be released through the existing reservoir outlet works, consistent with the Colorado River Basin Project Act of 1968 (82 Stat. 885).

4. ''BCPA'' shall mean the Boulder Canyon Project Act of 1928 (28 Stat. 1057).

5. ''Basin States'' shall mean the seven Colorado River Basin States of Arizona, California, Colorado, New Mexico, Nevada, Utah, and Wyoming.

6. ''Certification Report'' shall mean the written documentation provided by a Contractor that provides the Secretary with sufficient information to allow the Secretary to determine whether the quantity of ICS or DSS approved by the Secretary in an approved plan has been created and whether the creation was consistent with the approved plan.

7. ''Colorado River System'' shall have the same meaning as defined in the 1922 Colorado River Compact.

8. ''Consolidated Decree'' shall mean the Consolidated Decree entered by the United States Supreme Court in *Arizona* v. *California*, 547 U.S. 150 (2006).

9. ''Contractor'' shall mean an entity holding an entitlement to Mainstream water under (a) the Consolidated Decree, (b) a water delivery contract with the United States through the Secretary, or (c) a reservation of water by the Secretary, whether the entitlement is obtained under (a), (b) or (c) before or after the adoption of these Guidelines.

10. ''DSS Account'' shall mean records established by the Secretary regarding DSS.

11. ''Delivery Agreement'' shall mean an agreement consistent with these Guidelines entered into between the Secretary of the Interior and one or more Contractors creating ICS.

12. ''Developed Shortage Supply (''DSS'')'' shall mean water available for use by a Contractor under the terms and conditions of a Delivery Agreement and Section 4 of these Guidelines in a Shortage Condition, under Article III(B)(3) of the Consolidated Decree.

13. ''Direct Delivery Domestic Use'' shall mean direct delivery of water to domestic end users or other municipal and industrial water providers within the Contractor's area of normal service, including incidental regulation of Colorado River water supplies within the Year of operation but not including Off-stream Banking. For the Metropolitan Water District of Southern California (MWD), Direct Delivery Domestic Use shall include delivery of water to end users within its area of normal service, incidental regulation of Colorado River water supplies within the Year of operation, and Off-stream Banking only with water delivered through the Colorado River Aqueduct.

14. ''Domestic Use'' shall have the same meaning as defined in the 1922 Colorado River Compact.

15. ''Forbearance Agreement'' shall mean an agreement under which one or more Contractors agree to forbear a right to ICS, under a water delivery contract or the Consolidated Decree.

16. ''ICS Account'' shall mean records established by the Secretary regarding ICS.

17. ''ICS Determination'' shall mean a determination by the Secretary that ICS is available for delivery.

18. ''Intentionally Created Surplus (''ICS'')'' shall mean surplus Colorado River System water available for use under the terms and conditions of a Delivery Agreement, a Forbearance Agreement, and these Guidelines.

a. ICS created through extraordinary conservation, as provided for in Section 3.A.1., shall be referred to as ''Extraordinary Conservation ICS.''

b. ICS created through tributary conservation, as provided for in Section 3.A.2., shall be referred to as ''Tributary Conservation ICS.''

c. ICS created through system efficiency projects, as provided for in

Section 3.A.3., shall be referred to as ''System Efficiency ICS.''

d. ICS created through the importation of non-Colorado River System Water, as provided for in Section 3.A.4., shall be referred to as ''Imported ICS.''

19. ''Interim Period'' shall mean the effective period as described in Section 8.

20. ''Long-Range Operating Criteria (''LROC'')'' shall mean the Criteria for the Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968 (Pub. L. 90–537), published at 35 FR 8951 (June 10, 1970), as amended March 21, 2005.

21. ''Lower Division states'' shall mean the Colorado River Basin States of Arizona, California, and Nevada.

22. ''Mainstream'' shall have the same meaning as defined in the Consolidated Decree.

23. ''Off-stream Banking'' shall mean the diversion of Colorado River water to underground storage facilities for use in subsequent Years from the facility used by a Contractor diverting such water.

24. ''ROD'' shall mean the Record of Decision issued by the Secretary for the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead.

25. ''Upper Division states'' shall mean the Colorado River Basin States of Colorado, New Mexico, Utah, and Wyoming.

26. ''Water Accounting Report'' shall mean the annual Colorado River Accounting and Water Use Report—Arizona, California, and Nevada that includes, but is not limited to, the compilation of records in accordance with Article V of the Consolidated Decree.

27. ''Water Year'' shall mean October 1 through September 30.

28. ''Year'' shall mean calendar year.

G. Interim Guidelines for the Operation of Lake Powell and Lake Mead

These Guidelines shall include Sections XI.A., B., E., and F. above and this Section XI.G. These Guidelines which shall implement and be used for determinations made pursuant to the Long-Range Operating Criteria during the effective period identified in Section 8, are hereby adopted:

Section 1. Allocation of Unused Basic Apportionment Water Under Article II(B)(6)

A. Introduction

Article II(B)(6) of the Consolidated Decree allows the Secretary to allocate water that is apportioned to one Lower Division state, but is for any reason unused in that State, to another Lower Division state. This determination is made for one Year only and no rights to recurrent use of the water accrue to the state that receives the allocated water.

B. Application to Unused Basic Apportionment

Before making a determination of a Surplus Condition under these Guidelines, the Secretary will determine the quantity of apportioned but unused water excluding ICS created in that Year from the basic apportionments under Article II(B)(6), and will allocate such water in the following order of priority:

1. Meet the Direct Delivery Domestic Use requirements of MWD and Southern Nevada Water Authority (SNWA), allocated as agreed by said agencies;

2. Meet the needs for Off-stream Banking activities for use in California by MWD and for use in Nevada by SNWA, allocated as agreed by said agencies; and

3. Meet the other needs for water in California in accordance with the California Seven-Party Agreement as supplemented by the Quantification Settlement Agreement.

Section 2. Determination of Lake Mead Operation During the Interim Period

In the development of the AOP, the Secretary shall use the August 24-Month Study projections for the following January 1 system storage and reservoir water surface elevations to determine the Lake Mead operation for the following Calendar Year as described in this Section 2.

A. Normal Conditions

1. Lake Mead above elevation 1,075 feet and below elevation 1,145 feet

In years when Lake Mead elevation is projected to be above 1,075 feet and below elevation 1,145 feet on January 1, the Secretary shall determine either a Normal Condition, or, under Section 2.B.5., an ICS Surplus Condition.

B. Surplus Conditions

1. Partial Domestic Surplus

[Adopted January 16, 2001; Deleted December 13, 2007.]

2. Domestic Surplus

(Lake Mead at or above elevation 1,145 feet and below the elevation that triggers a Quantified Surplus (70R Strategy).)

In years when Lake Mead content is projected to be at or above elevation 1,145 feet, but less than the amount which would initiate a Surplus under Section 2.B.3., Quantified Surplus, or Section 2.B.4., Flood Control Surplus, on January 1, the Secretary shall determine a Domestic Surplus Condition. The amount of such Surplus shall equal—

a. From the effective date of these Guidelines through December 31, 2015 (through preparation of the 2016 AOP):

(1) For Direct Delivery Domestic Use by MWD, 1.250 maf reduced by the amount of basic apportionment available to MWD.

(2) For use by SNWA, the Direct Delivery Domestic Use within the SNWA service area in excess of the State of Nevada's basic apportionment.

(3) For use in Arizona, the Direct Delivery Domestic Use in excess of Arizona's basic apportionment.

b. From January 1, 2016 (for preparation of the 2017 AOP) through December 31, 2025 (through preparation of the 2026 AOP):

(1) For use by MWD, 250,000 af per Year in addition to the amount of California's basic apportionment available to MWD.

(2) For use by SNWA, 100,000 af per Year in addition to the amount of Nevada's basic apportionment available to SNWA.

(3) For use in Arizona, 100,000 af per Year in addition to the amount of Arizona's basic apportionment available to Arizona Contractors.

3. Quantified Surplus (70R Strategy) [2]

In years when the Secretary determines that water should be delivered for beneficial consumptive use to reduce the risk of potential reservoir spills based on the 70R Strategy the Secretary shall determine a Quantified Surplus Condition and allocate a Quantified Surplus sequentially as follows:

a. Establish the volume of the Quantified Surplus. For the purpose of determining the existence, and establishing the volume, of Quantified Surplus, the Secretary shall not consider any volume of ICS as defined in these Guidelines.

b. Allocate and distribute the Quantified Surplus 50 percent to California, 46 percent to Arizona, and 4 percent to Nevada, subject to c. through e. that follow.

c. Distribute California's share first to meet basic apportionment demands and MWD's demands, and then to California Priorities 6 and 7 and other surplus

[2] 70R is a spill avoidance strategy that determines a surplus if the January 1 projected system storage space is less than the space required by the flood control criteria, assuming a natural inflow of 17.4 maf (the 70th percentile non-exceedence flow). See ISG Final EIS at Section 2.3.1.2.

contracts. Distribute Nevada's share first to meet basic apportionment demands and then to the remaining demands. Distribute Arizona's share to surplus demands in Arizona including Off-stream Banking and interstate banking demands. Nevada shall receive first priority for interstate banking in Arizona.

d. Distribute any unused share of the Quantified Surplus in accordance with Section 1.

e. Determine whether MWD, SNWA and Arizona have received the amount of water they would have received under Section 2.B.2., if a Quantified Surplus Condition had not been determined. If they have not, then determine and meet all demands provided for in Section 2.B.2.

4. Flood Control Surplus

In years in which the Secretary makes space-building or flood control releases [3] pursuant to the 1984 Field Working Agreement between Reclamation and the Army Corps of Engineers (as may be amended), the Secretary shall determine a Flood Control Surplus for the remainder of that Year or the subsequent Year. In such years, releases will be made to satisfy all beneficial uses within the United States, including unlimited Off-stream Banking.

5. ICS Surplus

a. In years in which Lake Mead's elevation is projected to be above elevation 1,075 feet on January 1, a Flood Control Surplus has not been determined, and delivery of ICS has been requested, the Secretary may determine an ICS Surplus Condition in lieu of a Normal Condition or in addition to other operating conditions that are based solely on the elevation of Lake Mead.

b. In years in which a Quantified Surplus or a Domestic Surplus is available to a Contractor, the Secretary shall first deliver the Quantified Surplus or Domestic Surplus before delivering any requested ICS to that Contractor. If available Quantified Surplus or Domestic Surplus is insufficient to meet a Contractor's demands, the Secretary shall deliver ICS available in that Contractor's ICS Account at the request of the Contractor, subject to the provisions of Section 3.C.

C. Allocation of Colorado River Water and Forbearance and Reparation Arrangements

[Content of 2001 ISG Section 2.C., Allocation of Colorado River Water and Forbearance and Reparation Arrangements, is now found at III.A., as modified.]

D. Shortage Conditions

1. Deliveries to the Lower Division States during Shortage Condition Years shall be implemented in the following manner:

a. In years when Lake Mead content is projected to be at or below elevation 1,075 feet and at or above 1,050 feet on January 1, a quantity of 7.167 maf shall be apportioned for consumptive use in the Lower Division States of which 2.48 maf shall be apportioned for use in Arizona and 287,000 af shall be apportioned for use in Nevada in accordance with the Arizona-Nevada Shortage Sharing Agreement dated February 9, 2007, and 4.4 maf shall be apportioned for use in California.

b. In years when Lake Mead content is projected to be below elevation 1,050 feet and at or above 1,025 feet on January 1, a quantity of 7.083 maf shall be apportioned for consumptive use in the Lower Division States of which 2.4 maf shall be apportioned for use in Arizona and 283,000 af shall be apportioned for use in Nevada in accordance with the Arizona-Nevada Shortage Sharing Agreement dated February 9, 2007, and 4.4 maf shall be apportioned for use in California.

c. In years when Lake Mead content is projected to be below elevation 1,025 feet on January 1, a quantity of 7.0 maf shall be apportioned for consumptive use in the Lower Division States of which 2.32 maf shall be apportioned for use in Arizona and 280,000 af shall be apportioned for use in Nevada in accordance with the Arizona-Nevada Shortage Sharing Agreement dated February 9, 2007, and 4.4 maf shall be apportioned for use in California.

2. During a Year when the Secretary has determined a Shortage Condition, the Secretary shall deliver Developed Shortage Supply available in a Contractor's DSS Account at the request of the Contractor, subject to the provisions of Section 4.C.

Section 3. Implementation of Intentionally Created Surplus

[Content of 2001 ISG Section 3., Implementation of Guidelines, is now found at Section 7., as modified herein.]

A. Categories of ICS

1. Extraordinary Conservation ICS

A Contractor may create Extraordinary Conservation ICS through the following activities:

a. Fallowing of land that currently is, historically was, and otherwise would have been irrigated in the next Year.

b. Canal lining programs.

c. Desalination programs in which the desalinated water is used in lieu of Mainstream water.

d. Extraordinary conservation programs that existed on January 1, 2006.

e. Extraordinary Conservation ICS demonstration programs pursuant to a letter agreement entered into between Reclamation and the Contractor prior to the effective date of these Guidelines.

f. Tributary Conservation ICS created under Section 3.A.2. and not delivered in the Year created.

g. Imported ICS created under Section 3.A.4. and not delivered in the Year created.

h. Other extraordinary conservation measures, including but not limited to, development and acquisition of a non-Colorado River System water supply used in lieu of Mainstream water within the same state, in consultation with the Basin States.

2. Tributary Conservation ICS

A Contractor may create Tributary Conservation ICS by purchasing documented water rights on Colorado River System tributaries within the Contractor's state if there is documentation that the water rights have been used for a significant period of Years and that the water rights were perfected prior to June 25, 1929 (the effective date of the Boulder Canyon Project Act). The actual amount of any Tributary Conservation ICS introduced to the Mainstream shall be subject to verification by the Secretary as provided in Section 3.D. Any Tributary Conservation ICS not delivered pursuant to Section 3.C. or deducted pursuant to Section 3.B.2. in the Year it was created will, at the beginning of the following Year, be converted to Extraordinary Conservation ICS and will thereafter be subject to all provisions applicable to Extraordinary Conservation ICS. Tributary Conservation ICS may be delivered for Domestic Use only.

3. System Efficiency ICS

A Contractor may make contributions of capital [4] to the Secretary for use in

[3] Under current practice, surplus waters are made available to Mexico pursuant to the 1944 Treaty (when Mexico may schedule up to an additional 0.2 maf) when flood control releases are made. These Guidelines are not intended to affect that practice. Any issues relating to the implementation of the 1944 Treaty, including any potential changes in approach relating to surplus declarations under the 1944 Treaty, would be addressed with Mexico as appropriate through the USIBWC.

[4] To the extent permitted by federal law, monies to pay construction, operation, maintenance, repair, and/or replacement costs.

projects designed to realize system efficiencies that save water that would otherwise be lost from the Mainstream in the United States. An amount of water equal to a portion of the water conserved would be made available to contributing Contractor(s) by the Secretary as System Efficiency ICS.[5] System efficiency projects are intended only to provide temporary water supplies. System Efficiency ICS will be delivered to the contributing Contractor(s) on a schedule of annual deliveries as provided in an exhibit to a Forbearance Agreement and Delivery Agreement. The Secretary may identify potential system efficiency projects, terms for capital participation in such projects, and types and amounts of benefits the Secretary could provide in consideration of non-federal capital contributions to system efficiency projects, including identification of a portion of the water saved by such projects.

4. Imported ICS

A Contractor may create Imported ICS by introducing non-Colorado River System water in that Contractor's state into the Mainstream. Contractors proposing to create Imported ICS shall make arrangements with the Secretary, contractual or otherwise, to ensure no interference with the Secretary's management of Colorado River System reservoirs and regulatory structures. Any arrangement shall provide that the Contractor must obtain appropriate permits or other authorizations required by state and federal law. The actual amount of any Imported ICS introduced to the Mainstream shall be subject to verification by the Secretary as provided in Section 3.D. Any Imported ICS not delivered pursuant to Section 3.C. or deducted pursuant to Section 3.B.2. in the Year it was created will be converted, at the beginning of the following Year, to Extraordinary Conservation ICS and thereafter will be subject to all provisions applicable to Extraordinary Conservation ICS.

B. Creation of ICS

A Contractor may only create ICS in accordance with the following conditions:

1. A Contractor shall submit a plan for the creation of ICS to the Secretary demonstrating how all requirements of these Guidelines will be met in the Contractor's creation of ICS. Until such plan is reviewed and approved by the Secretary, subject to such environmental compliance as may be required, such plan or any ICS purportedly created through it shall not be a basis for creation of ICS. An ICS plan will consist of at a minimum the following information:

a. Project description, including what extraordinary measures will be taken to conserve or import water;

b. Term of the activity;

c. Estimate of the amount of water that will be conserved or imported;

d. Proposed methodology for verification of the amount of water conserved or imported; and

e. Documentation regarding any state or federal permits or other regulatory approvals that have already been obtained by the Contractor or that need to be obtained prior to creation of ICS.

A Contractor may modify its approved plan for creation of ICS during any Year, subject to approval by the Secretary. A Contractor with an approved multi-Year plan for System Efficiency ICS is not required to seek further approval by the Secretary in subsequent Years unless the Contractor seeks to modify the plan.

2. There shall be a one-time deduction of five percent (5%) from the amount of ICS in the Year of its creation. This system assessment shall result in additional system water in storage in Lake Mead. This one-time system assessment shall not apply to:

a. System Efficiency ICS created pursuant to Section 3.B. because a large portion of the water conserved by this type of project will increase the quantity of system water in storage over time.

b. Extraordinary Conservation ICS created by conversion of Tributary Conservation ICS that was not delivered in the Year created, pursuant to this Section 3.B. because 5% of the ICS is deducted at the time the Tributary Conservation ICS is created.

c. Extraordinary Conservation ICS created by conversion of Imported ICS that was not delivered in the Year created, pursuant to this Section 3.B. because 5% of the ICS is deducted at the time the Imported ICS is created.

d. ICS created under demonstration programs in 2006 and 2007 which has already been assessed the 5% system assessment.

3. Except as provided in Sections 3.A.2. and 3.A.4., Extraordinary Conservation ICS can only be created if such water would have otherwise been beneficially used.

4. The maximum total amount of Extraordinary Conservation ICS that can be created during any Year is limited to the following:

a. 400,000 af for California Contractors;

b. 125,000 af for Nevada Contractors; and

c. 100,000 af for Arizona Contractors.

5. The maximum quantity of Extraordinary Conservation ICS that may be accumulated in all ICS Accounts, at any time, is limited to the following:

a. 1.5 maf for California Contractors;

b. 300,000 af for Nevada Contractors; and

c. 300,000 af for Arizona Contractors.

6. Except as provided in Sections 3.A.2. and 3.A.4., no category of surplus water can be used to create Extraordinary Conservation ICS.

7. The quantity of Extraordinary Conservation ICS remaining in an ICS Account at the end of each Year shall be diminished by annual evaporation losses of 3%. Losses shall be applied annually to the end-of-the-Year balance of Extraordinary Conservation ICS beginning in the Year after the ICS is created and continuing until no Extraordinary Conservation ICS remains in Lake Mead. No evaporation losses shall be assessed during a Year in which the Secretary has determined a Shortage Condition.

8. Extraordinary Conservation ICS from a project within a state may only be credited to the ICS Account of a Contractor within that state that has funded or implemented the project creating ICS, or to the ICS Account of a Contractor within the same state as the funding entity and project and with written agreement of the funding entity.

9. A Contractor must notify Reclamation of the amount of ICS it wishes to create for the subsequent Year pursuant to an existing, approved plan. A Contractor may request mid-Year modification(s) to reduce the amount of ICS created during that Year, subject to the requirements of this Section 3.B. A Contractor cannot increase the amount of ICS it had previously scheduled to create during the Year.

C. Delivery of ICS

The Secretary shall deliver ICS in accordance with the following conditions:

1. The delivery shall be consistent with the terms of a Delivery Agreement with a Contractor regarding ICS.

2. The Secretary has determined an ICS Surplus Condition.

3. The existence of Forbearance Agreements necessary to bring the delivery of the ICS into compliance with Articles II(B)(2) and II(B)(6) of the Consolidated Decree.

[5] Should other Contractor(s) elect to participate in a system efficiency project following the Secretary making an amount of water available to the contributing Contractor(s), the Secretary shall reduce the amount of water in the contributing Contractor(s)' ICS Account(s) and credit the electing Contractor(s)' ICS Account(s) in an equal amount in accordance with the terms of the Secretary's agreement for the funding of the system efficiency project.

4. A limitation on the total amount of Extraordinary Conservation ICS that may be delivered in any Year is as follows:

a. 400,000 af for California Contractors;

b. 300,000 af for Nevada Contractors; and

c. 300,000 af for Arizona Contractors.

5. If the May 24-Month Study for that Year indicates that a Shortage Condition would be determined in the succeeding Year if the requested amounts for the current Year under Section 3.C. were delivered, the Secretary may deliver less than the amounts of ICS requested to be delivered.

6. If the Secretary releases Flood Control Surplus water, Extraordinary Conservation ICS accumulated in ICS Accounts shall be reduced by the amount of the Flood Control Surplus on an acre-foot for acre-foot basis until no Extraordinary Conservation ICS remains. The reductions to the ICS Accounts shall be shared on a pro-rata basis among all Contractors that have accumulated Extraordinary Conservation ICS.

7. If a Contractor has an overrun payback obligation, as described in the October 10, 2003 Inadvertent Overrun and Payback Policy or Exhibit C to the October 10, 2003 Colorado River Water Delivery Agreement, the Contractor must pay the overrun payback obligation in full before requesting or receiving delivery of ICS. The Contractor's ICS Account shall be reduced by the amount of the overrun payback obligation in order to pay the overrun payback obligation.

8. If more ICS is delivered to a Contractor than is actually available for delivery to the Contractor in that Year, then the excess ICS delivered shall be treated as an inadvertent overrun until it is fully repaid.

9. A Contractor may request mid-Year modification(s) to increase or reduce the amount of ICS to be delivered during that Year because of changed conditions, emergency, or hardship, subject to the requirements of this Section 3.C.

10. The Contractor shall agree in the Delivery Agreement that the records of the Contractor relating to the creation of ICS shall be open to inspection by the Secretary and by any Contractor or Basin State.

D. Accounting for ICS

The Secretary shall develop procedures to account for and verify, on an annual basis, ICS creation and delivery. At a minimum such procedures shall include the following:

1. A Contractor shall submit for the Secretary's review and verification, appropriate information, as determined by the Secretary, contained in a Certification Report, to demonstrate the amount of ICS created and that the method of creation was consistent with the Contractor's approved ICS plan, a Forbearance Agreement, and a Delivery Agreement. Such information shall be submitted in the Year following the creation of the ICS.

2. The Secretary, acting through the Lower Colorado Regional Director, shall verify the information submitted pursuant to this section, and provide a final written decision to the Contractor regarding the amount of ICS created. The results of such final written decisions shall be made available to the public through publication pursuant to Section 3.D.3. and other appropriate means. A Contractor and any party to an applicable Forbearance Agreement may appeal the Regional Director's verification decision first to the Regional Director and then to the Secretary; and through judicial processes.

3. Each Year the Water Accounting Report will be supplemented to include ICS Account balance information for each Contractor and shall address ICS creation, deliveries, amounts no longer available for delivery due to releases for flood control purposes, deductions pursuant to Section 3.B.2., deductions due to annual evaporation losses pursuant to Section 3.B.7., any amounts of ICS converted to Extraordinary Conservation ICS, and ICS remaining available for delivery.

Section 4. Implementation of Developed Shortage Supply

[Content of 2001 ISG Section 4., Effective Period & Termination, is now found at Section 8., as modified herein.]

A. Categories of DSS

1. Tributary Conservation DSS

A Contractor may create Tributary Conservation DSS by purchasing documented water rights on Colorado River System tributaries within the Contractor's state if there is documentation that the water rights have been used for a significant period of Years and that the water rights were perfected prior to June 25, 1929 (the effective date of the Boulder Canyon Project Act). The actual amount of any Tributary Conservation DSS introduced to the Mainstream shall be subject to verification by the Secretary as provided in Section 4.D. Tributary Conservation DSS may be delivered for Domestic Use only.

2. Imported DSS

A Contractor may create Imported DSS by introducing non-Colorado River System water in that Contractor's state into the Mainstream, making sufficient arrangements with the Secretary, contractual or otherwise, to ensure no interference with the Secretary's management of Colorado River System reservoirs and regulatory structures. Any arrangement shall provide that the Contractor must obtain appropriate permits or other authorizations required by state and federal law. The actual amount of any Imported DSS introduced to the Mainstream shall be subject to verification by the Secretary as provided in Section 4.D.

B. Creation of DSS

A Contractor may only create DSS in accordance with the following conditions:

1. A Contractor shall submit a plan for the creation of DSS to the Secretary demonstrating how all requirements of these Guidelines will be met in the Contractor's creation of DSS. Until such plan is reviewed and approved by the Secretary, subject to such environmental compliance as may be required, such plan, or any DSS purportedly created through it, shall not be a basis for creation of DSS. A DSS plan will consist of at a minimum the following information:

a. Project description, including what extraordinary measures will be taken to conserve or import water;

b. Term of the activity;

c. Estimate of the amount of water that will be conserved or imported;

d. Proposed methodology for verification of the amount of water conserved or imported; and

e. Documentation regarding any state or federal permits or other regulatory approvals that have already been obtained by the Contractor or that need to be obtained prior to creation of DSS.

A Contractor may modify its approved plan for creation of DSS during any Year, subject to approval by the Secretary.

2. There shall be a one-time deduction of five percent (5%) from the amount of DSS in the Year of its creation. This system assessment shall result in additional system water in storage in Lake Mead.

3. DSS may only be created during a Year when the Secretary has determined a Shortage Condition.

4. DSS may only be created by a project that is approved by the Secretary for creation prior to the Secretary determining a Shortage Condition.

5. A Contractor must notify Reclamation of the amount of DSS it

wishes to create for the subsequent Year pursuant to an existing, approved plan. A Contractor may request mid-Year modification(s) to reduce the amount of DSS created during that Year, subject to the requirements of this Section 4.B. A Contractor cannot increase the amount of DSS it had previously scheduled to create during the Year.

C. Delivery of DSS

The Secretary shall deliver DSS in accordance with the following conditions:

1. The delivery shall be consistent with the terms of a Delivery Agreement with a Contractor regarding DSS.

2. The Secretary has determined a Shortage Condition.

3. Delivery of DSS shall not cause the total deliveries within the Lower Division states to reach or exceed 7.5 maf in any Year.

4. Delivery of DSS shall be in accordance with Article II(B)(3) of the Consolidated Decree.

5. If a Contractor has an overrun payback obligation, as described in the October 10, 2003 Inadvertent Overrun and Payback Policy or Exhibit C to the October 10, 2003 Colorado River Water Delivery Agreement, the Contractor must pay the overrun payback obligation in full before requesting or receiving delivery of DSS. The Contractor's DSS Account shall be reduced by the amount of the overrun payback obligation in order to pay the overrun payback obligation.

6. If more DSS is delivered to a Contractor than is actually available for delivery to the Contractor in that Year, then the excess DSS delivered shall be treated as an inadvertent overrun until it is fully repaid.

7. A Contractor may request mid-Year modification(s) to increase or reduce the amount of DSS to be delivered during that Year because of changed conditions, emergency, or hardship, subject to the requirements of this Section 4.C.

8. The Contractor shall agree in the Delivery Agreement that the records of the Contractor relating to the creation of DSS shall be open to inspection by the Secretary or by any Contractor or Basin State.

9. DSS may only be delivered in the Year of its creation. Any DSS not delivered pursuant to this Section 4.C. in the Year it is created may not be converted to Extraordinary Conservation ICS.

D. Accounting for DSS

The Secretary shall develop procedures to account for and verify, on an annual basis, DSS creation and delivery. At a minimum such procedures shall include the following:

1. A Contractor shall submit for the Secretary's review and verification appropriate information, as determined by the Secretary, contained in a Certification Report, to demonstrate the amount of DSS created and that the method of creation was consistent with the Contractor's approved DSS plan and a Delivery Agreement. Such information shall be submitted in the Year following the creation of the DSS.

2. The Secretary, acting through the Lower Colorado Regional Director, shall verify the information submitted pursuant to this section, and provide a final written decision to the Contractor regarding the amount of DSS created. The results of such final written decisions shall be made available to the public through publication pursuant to Section 4.D.3. and other appropriate means. The Contractor may appeal the Regional Director's verification decision first to the Regional Director and then to the Secretary; and through judicial processes.

3. Each Year the Water Accounting Report will be supplemented to include DSS information for each Contractor and shall address DSS creation, deliveries, and deductions pursuant to Section 4.B.2.

Section 5. California's Colorado River Water Use Plan Implementation Progress

A. Introduction

[Adopted January 16, 2001; Deleted December 13, 2007.]

B. California's Quantification Settlement Agreement

[Adopted January 16, 2001; Deleted December 13, 2007.]

C. California's Colorado River Water Use Reductions

The California Agricultural (Palo Verde Irrigation District, Yuma Project Reservation Division, Imperial Irrigation District, and Coachella Valley Water District) usage plus 14,500 af of Present Perfected Right (PPR) use would need to be at or below the following amounts at the end of the Year indicated in Years other than Quantified or Flood Control Surplus (for Decree accounting purposes all reductions must be within 25,000 af of the amounts stated):

Benchmark date (calendar year)	Benchmark quantity (California agricultural usage & 14,500 AF of PPR use in MAF)
2003	[6] 3.75
2006	[6] 3.64
2009	[7] 3.60
2012	3.47

In the event that California has not reduced its use in accordance with the limits set forth above in any Year in which the Benchmark Quantity applies, the surplus determination under Section 2.B.2. of these Guidelines will be suspended and will instead be based upon the 70R Strategy, for up to the remainder of the term of these Guidelines. If however, California meets the missed Benchmark Quantity before the next Benchmark Date or the 2012 Benchmark Quantity after 2012, the surplus determination under Section 2.B.2. shall be reinstated as the basis for the surplus determination under the AOP for the next following Year(s).

As part of the AOP process during the Interim Period of these Guidelines, California shall report to the Secretary on its progress in implementing its California Colorado River Water Use Plan.

Section 6. Coordinated Operation of Lake Powell and Lake Mead During the Interim Period

[Content of 2001 ISG Section 6., Authority, is now found at Section 9., as modified herein.]

During the Interim Period, the Secretary shall coordinate the operations of Lake Powell and Lake Mead according to the strategy set forth in this Section 6. The objective of the operation of Lake Powell and Lake Mead as described herein is to avoid curtailment of uses in the Upper Basin, minimize shortages in the Lower Basin and not adversely affect the yield for development available in the Upper Basin.

The August 24-Month Study projections of the January 1 system storage and reservoir water surface elevations, for the following Water Year, shall be used to determine the applicable operational tier for the coordinated operation of Lake Powell and Lake Mead as specified in the table below.

Consistent with the provisions of this Section 6, equalization or balancing of storage in Lake Powell and Lake Mead shall be achieved as nearly as is

[6] The Benchmark Quantities in 2003 and 2006 were met.

[7] The 2009 Benchmark Quantity is modified from 3.53 maf due to construction delays that have been experienced for the All-American Canal Lining Project.

practicable by the end of each Water Year. When equalizing or balancing the contents of the reservoirs, scheduled Water Year releases from Lake Powell will be adjusted each month based on forecasted inflow, and projected September 30 Active Storage at Lake Powell and Lake Mead. In this Section 6, the term ''storage'' shall mean Active Storage.

When determining lake elevations and contents under this Section 6, no adjustment shall be made for ICS.

Coordinated operation of Lake Powell and Lake Mead as described herein will be presumed to be consistent with the Section 602(a) storage requirement contained in the Colorado River Basin Project Act.

Releases from Lake Powell for coordinated operations will be consistent with the parameters of the Record of Decision for the Glen Canyon Dam Final Environmental Impact Statement and the Glen Canyon Dam Operating Criteria (62 Fed. Reg. 9447, March 3, 1997).

Notwithstanding the quantities set forth in this Section 6, the Secretary shall evaluate and take additional necessary actions, as appropriate, at critical elevations in order to avoid Lower Basin shortage determinations as reservoir conditions approach critical thresholds. Any actions shall also be consistent with avoidance of curtailment of consumptive uses in the Upper Basin.

Lake Powell Operational Tiers
(subject to April adjustments or mid-year review modifications)

Lake Powell Elevation (feet)	Lake Powell Operational Tier	Lake Powell Active Storage (maf)
3,700		**24.32**
	Equalization Tier Equalize, avoid spills or release 8.23 maf	
3,636 – 3,666		**15.54 – 19.29**
(see table below)	**Upper Elevation Balancing Tier** release 8.23 maf; if Lake Mead < 1,075 feet, balance contents with a min/max release of 7.0 and 9.0 maf	(2008 – 2026)
3,575		**9.52**
	Mid-Elevation Release Tier release 7.48 maf; if Lake Mead < 1,025 feet, release 8.23 maf	
3,525		**5.93**
	Lower Elevation Balancing Tier balance contents with a min/max release of 7.0 and 9.5 maf	
3,370		**0**

April adjustments to Lake Powell operations in the Upper Elevation Balancing Tier (as specified in Sections 6.B.3. and 6.B.4.) shall be based on the April 24-Month Study projections of the September 30 system storage and reservoir water surface elevations for the current Water Year. Any such adjustments shall not require re-initiation of the AOP consultation process. In making these projections, the Secretary shall utilize the April 1 final forecast of the April through July runoff, currently provided by the National Weather Service's Colorado Basin River Forecast Center.

A. Equalization Tier

In each Water Year, the Lake Powell equalization elevation will be as follows:

LAKE POWELL EQUALIZATION ELEVATION TABLE

Water year	Elevation (feet)
2008	3,636
2009	3,639
2010	3,642
2011	3,643
2012	3,645
2013	3,646
2014	3,648
2015	3,649
2016	3,651
2017	3,652
2018	3,654
2019	3,655
2020	3,657
2021	3,659
2022	3,660
2023	3,662
2024	3,663

LAKE POWELL EQUALIZATION ELEVATION TABLE—Continued

Water year	Elevation (feet)
2025	3,664
2026	3,666

1. In Water Years when Lake Powell elevation is projected on January 1 to be at or above the elevation stated in the Lake Powell Equalization Elevation Table, an amount of water will be released from Lake Powell to Lake Mead at a rate greater than 8.23 maf per Water Year to the extent necessary to avoid spills, or equalize storage in the two reservoirs, or otherwise to release 8.23 maf from Lake Powell. The Secretary shall release at least 8.23 maf per Water

Year and shall release additional water to the extent that the additional releases will not cause Lake Powell content to be below the elevation stated in the Lake Powell Equalization Elevation Table or cause Lake Mead content to exceed that of Lake Powell; provided, however, if Lake Powell reaches the elevation stated in the Lake Powell Equalization Elevation Table for that Water Year and the September 30 projected Lake Mead elevation is below elevation 1,105 feet, the Secretary shall release additional water from Lake Powell to Lake Mead until the first of the following conditions is projected to occur on September 30: (i) The reservoirs fully equalize; (ii) Lake Mead reaches elevation 1,105 feet; or (iii) Lake Powell reaches 20 feet below the elevation in the Lake Powell Equalization Elevation Table for that year.

B. Upper Elevation Balancing Tier

1. In Water Years when the projected January 1 Lake Powell elevation is below the elevation stated in the Lake Powell Equalization Elevation Table and at or above 3,575 feet, the Secretary shall release 8.23 maf from Lake Powell if the projected January 1 Lake Mead elevation is at or above 1,075 feet.

2. If the projected January 1 Lake Powell elevation is below the elevation stated in the Lake Powell Equalization Elevation Table and at or above 3,575 feet and the projected January 1 Lake Mead elevation is below 1,075 feet, the Secretary shall balance the contents of Lake Mead and Lake Powell, but shall release not more than 9.0 maf and not less than 7.0 maf from Lake Powell in the Water Year.

3. When operating in the Upper Elevation Balancing Tier, if the April 24-Month Study projects the September 30 Lake Powell elevation to be greater than the elevation in the Lake Powell Equalization Elevation Table, the Equalization Tier will govern the operation of Lake Powell for the remainder of the Water Year (through September).

4. When operating under Section 6.B.1, if the April 24-Month Study projects the September 30 Lake Mead elevation to be below 1,075 feet and the September 30 Lake Powell elevation to be at or above 3,575 feet, the Secretary shall balance the contents of Lake Mead and Lake Powell, but shall release not more than 9.0 maf and not less than 8.23 maf from Lake Powell in the Water Year.

5. When Lake Powell is projected to be operating under Section 6.B.2. and more than 8.23 maf is projected to be released from Lake Powell during the upcoming Water Year, the Secretary shall recalculate the August 24-Month Study projection of the January 1 Lake Mead elevation to include releases above 8.23 maf that are scheduled to be released from Lake Powell during the months of October, November, and December of the upcoming Water Year, for the purposes of determining Normal or Shortage conditions pursuant to Sections 2.A. or 2.D. of these Guidelines.

C. Mid-Elevation Release Tier

1. In Water Years when the projected January 1 Lake Powell elevation is below 3,575 feet and at or above 3,525 feet, the Secretary shall release 7.48 maf from Lake Powell in the Water Year if the projected January 1 elevation of Lake Mead is at or above 1,025 feet. If the projected January 1 Lake Mead elevation is below 1,025 feet, the Secretary shall release 8.23 maf from Lake Powell in the Water Year.

D. Lower Elevation Balancing Tier

1. In Water Years when the projected January 1 Lake Powell elevation is below 3,525 feet, the Secretary shall balance the contents of Lake Mead and Lake Powell, but shall release not more than 9.5 maf and not less than 7.0 maf from Lake Powell in the Water Year.

Section 7. Implementation of Guidelines

[Content of 2001 ISG Section 7, Modeling and Data Authority, is now found at Section 7.A., as modified herein.]

A. AOP Process

During the Interim Period, the Secretary shall utilize the AOP process to determine operations under these Guidelines concerning the coordinated operations of Lake Powell and Lake Mead pursuant to Section 6 of these Guidelines, and the allocation of apportioned but unused water from Lake Mead and the determinations concerning whether Normal, Surplus or Shortage conditions shall apply for the delivery of water from Lake Mead, pursuant to Section 1 and Section 2 of these Guidelines.

B. Consultation

The Secretary shall consult on the implementation of these Guidelines in circumstances including but not limited to the following:

1. The Secretary shall first consult with all the Basin States before making any substantive modification to these Guidelines.

2. Upon a request for modification of these Guidelines, or upon a request to resolve any claim or controversy arising under these Guidelines or under the operations of Lake Powell and Lake Mead pursuant to these Guidelines or any other applicable provision of federal law, regulation, criteria, policy, rule, or guideline, or regarding application of the 1944 Treaty that has the potential to affect domestic management of Colorado River water, the Secretary shall invite the Governors of all the Basin States, or their designated representatives, and the Department of State and USIBWC as appropriate, to consult with the Secretary in an attempt to resolve such claim or controversy by mutual agreement.

3. In the event projections included in any monthly 24-Month Study indicate Lake Mead elevations may approach an elevation that would trigger shortages in deliveries of water from Lake Mead in the United States, the Secretary shall consult with the Department of State, the USIBWC and the Basin States on whether and how the United States may reduce the quantity of water allotted to Mexico consistent with the 1944 Treaty.[8]

4. Whenever Lake Mead is below elevation 1,025 feet, the Secretary shall consult with the Basin States annually to consider whether Colorado River hydrologic conditions, together with the anticipated delivery of water to the Lower Division States and Mexico, is likely to cause the elevation of Lake Mead to fall below 1,000 feet. Upon such a consideration, the Secretary shall consult with the Basin States to discuss further measures that may be undertaken. The Secretary shall implement any additional measures consistent with applicable federal law.

5. During the Interim Period the Secretary shall consult with the Basin States regarding the administration of ICS.

6. During the Interim Period the Secretary shall consult with the Basin States regarding the creation of ICS through other extraordinary conservation measures pursuant to Section 3.A.1.h.

7. During the Interim Period the Secretary shall consult with the Basin States regarding the creation of System Efficiency ICS pursuant to Section 3.A.3.

8. The Secretary shall consult with the Basin States to evaluate actions at critical elevations that may avoid

[8] These Guidelines are not intended to constitute an interpretation or application of the 1944 Treaty or to represent current United States policy or a determination of future United States policy regarding deliveries to Mexico. The United States will conduct all necessary and appropriate discussions regarding the proposed federal action and implementation of the 1944 Treaty with Mexico through the IBWC in consultation with the Department of State.

shortage determinations as reservoir elevations approach critical thresholds.

C. Mid-Year Review

In order to allow for better overall water management during the Interim Period, the Secretary may undertake a mid-year review to consider revisions to the AOP. The Secretary shall initiate a mid-year review if requested by any Basin State or by the Upper Colorado River Commission. In the mid-year review, the Secretary may modify the AOP to make a determination that a different operational tier (Section 2.A., B., or D., or Section 6.A., B., C., or D.) than that determined in the AOP will apply for the remainder of the Year or Water Year as appropriate, or that an amount of water other than that specified in the applicable operational tier will be released for the remainder of the Year or Water Year as appropriate. The determination of modification of the AOP shall be based upon an evaluation of the objectives to avoid curtailment of uses in the Upper Basin, minimize shortages in the Lower Basin and not adversely affect the yield for development available in the Upper Basin. In undertaking such a mid-year review, the Secretary shall utilize the April 1 final forecast of the April through July runoff, currently provided by the National Weather Service's Colorado Basin River Forecast Center, and other relevant factors such as actual runoff conditions, actual water use, and water use projections. For Lake Mead, the Secretary shall revise the determination in any mid-year review for the current Year only to allow for additional deliveries from Lake Mead pursuant to Section 2 of these Guidelines.

D. Operations During Interim Period

These Guidelines implement the LROC and may be reviewed concurrently with the LROC five-year review. The Secretary will base annual determinations regarding the operations of Lake Powell and Lake Mead on these Guidelines unless extraordinary circumstances arise. Such circumstances could include operations that are prudent or necessary for safety of dams, public health and safety, other emergency situations, or other unanticipated or unforeseen activities arising from actual operating experience.

Beginning no later than December 31, 2020, the Secretary shall initiate a formal review for purposes of evaluating the effectiveness of these Guidelines. The Secretary shall consult with the Basin States in initiating this review.

Procedures will be established for implementation of ICS and DSS by Reclamation's Lower Colorado Regional Director.

Section 8. Interim Period and Termination

[Adopted January 16, 2001; Deleted and Modified December 13, 2007.]

A. Interim Period

These Guidelines will be effective upon the date of execution of the ROD for Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations of Lake Powell and Lake Mead and will, unless subsequently modified, remain in effect through December 31, 2025 (through preparation of the 2026 AOP).

The Department promulgated these Guidelines based on consideration of multiple sources of information, including existing applicable guidelines, information submitted by the general public, an Agreement and recommendation submitted by the representatives of the Governors of the seven Colorado Basin States, modeling, and other information contained in environmental compliance documentation. The Secretary recognizes that the Basin States' recommendation was developed with the intent to be consistent with existing law, as addressed by Section 9 of the April 23, 2007, Agreement among the Basin States.

The Secretary recognizes that differences exist with respect to interpretations of certain provisions contained in the Law of the River and the proper application of those provisions, including, for example, Section 602(a) of the Colorado River Basin Project Act of 1968. In lieu of a formal determination regarding such disputes, the Secretary will apply the operational criteria in these Guidelines. By way of further example, positions and rights concerning the calculation of the quantity of Section 602(a) storage and releases of water from Lake Powell are reserved. The Secretary, through the adoption of these Guidelines, makes no determination with respect to the correctness of any interpretation of Section 602(a) storage and release requirements or other positions of the individual Colorado River Basin States.

Actual operations under these Guidelines shall not represent interpretations of existing law by the Secretary, nor predetermine in any manner the means of operation that the Secretary may adopt following the Interim Period. Releases from Lake Powell or Lake Mead pursuant to these Guidelines shall not prejudice the position or interests of either the Upper or Lower Division States, or any Colorado River Basin State, with respect to required storage or deliveries of water pursuant to applicable federal law, either during or after the Interim Period.

B. Effective Period—Special Provisions

1. The provisions for the delivery and accounting of ICS in Section 3 shall remain in effect through December 31, 2036, unless subsequently modified, for any ICS remaining in an ICS Account on December 31, 2026.

2. The provisions for the creation and delivery of Tributary Conservation ICS and Imported ICS in Section 3 shall continue in full force and effect until fifty years from the date of the execution of the ROD.

3. The provisions for the creation and delivery of DSS in Section 4 shall continue in full force and effect until fifty years from the date of the execution of the ROD.

C. Termination of Guidelines

Except as provided in Section 8.B., these Guidelines shall terminate on December 31, 2025 (through preparation of the 2026 AOP). At the conclusion of the effective period of these Guidelines, the operating criteria for Lake Powell and Lake Mead are assumed to revert to the operating criteria used to model baseline conditions in the Final Environmental Impact Statement for the Interim Surplus Guidelines dated December 2000 (i.e., modeling assumptions are based upon a 70R Strategy for the period commencing January 1, 2026 (for preparation of the 2027 AOP)).

Section 9. Authority

These Guidelines are issued pursuant to the authority vested in the Secretary by federal law, including the Boulder Canyon Project Act of 1928 (28 Stat. 1057), the Colorado River Storage Project Act (70 Stat. 105), and the Consolidated Decree issued by the U.S. Supreme Court in Arizona v. California, 547 U.S. 150 (2006) and shall be used to implement Articles II and III of the Criteria for the Coordinated Long-Range Operation of Colorado River Reservoirs Pursuant to the Colorado River Basin Project Act of September 30, 1968 (Pub. L. 90–537), as amended.

[FR Doc. E8–7760 Filed 4–10–08; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980

Under 42 U.S.C. 9622(d)(2) and 28 CFR 50.7, notice is hereby given that on April 7, 2008, two proposed Consent Decrees in *United States* v. *Industrial Excess Landfill, Inc.,* Civil Action Number 5:89-CV–1988 (consolidated with *State of Ohio* v. *Industrial Excess Landfill, Inc.,* Civil Action Number 5:91-CV–2559), were lodged with the United States District Court for the Northern District of Ohio.

The first Consent Decree resolves claims against Charles and Merle Kittinger and Kittinger Trucking Company (the ''Kittinger Decree''), brought by the United States on behalf of the U.S. Environmental Protection Agency (''EPA'') under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA''), 42 U.S.C. 9607, for response costs incurred and to be incurred by the United States in responding to the release and threatened release of hazardous substances at the Industrial Excess Landfill Superfund Site (''Site'') in Uniontown, Ohio, as well as CERCLA and other claims related to the Site brought by the State of Ohio. Under the Kittinger Decree, defendants Merle and Charles Kittinger and the Kittinger Trucking Company will pay the United States $954 in reimbursement of past costs and the State of Ohio $46 in reimbursement of response costs.

The second Consent Decree resolves claims against Industrial Excess Landfill, Inc.; Hybud Equipment Corporation; and Hyman Budoff (''Budoff Decree''), brought by the United States on behalf of the EPA under section 107 of CERCLA, 42 U.S.C. 9607, for response costs incurred and to be incurred by the United States in responding to the release and threatened release of hazardous substances at the Site, as well as CERCLA and other claims related to the Site brought against the Budoff Defendants by the State of Ohio. Under its Consent Decree, the Budoff Defendants will pay $210,000 to the United States and the State of Ohio in reimbursement of response costs. The Budoff Decree also requires the Budoff Defendants to attempt to sell two different real estate parcels, the Site and a neighboring parcel, and turn over the proceeds to the United States and the State of Ohio, as well as agree to restrictive environmental covenants.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Consent Decrees. 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. *Industrial Excess Landfill, Inc.,* DOJ Ref. # 90–11–3–247/2.

Each Consent Decree may be examined at the Office of the United States Attorney, Northern District of Ohio, 801 West Superior Avenue, Suite 400, Cleveland, Ohio 44113, and the Region 5 Office of the Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, Illinois 60604. During the public comment period, the Consent Decrees may also be examined on the following Department of Justice Web site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Kittinger Decree and Budoff 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 specify whether requesting the Kittinger Decree, the Budoff Decree, or both, and please enclose a check payable to the U.S. Treasury in the amount of $6.25 for the Kittinger Decree, $17.25 for the Budoff Decree, or $23.50 for both Decrees (for reproduction costs of 25 cents per page).

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–7685 Filed 4–10–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act

Notice is hereby given that on March 31, 2008, a proposed Consent Decree (''Consent Decree'') in *United States* v. *T.L. Diamond & Co., Inc. et al.*, Civil Action No. 08–3079 was lodged with the United States District Court for the Central District of Illinois.

In this action the United States sought, pursuant to section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607(a), the recovery of response costs from T.L. Diamond & Co., Inc. (''TLD'') and Mr. Theodore L. Diamond (''Mr. Diamond''), the President of TLD (collectively the ''Settling Defendants'') incurred or to be incurred by the United States for response activities undertaken in response to the release and threatened release of hazardous substances from a facility located in the City of Hillsboro, Montgomery County, Illinois, known as the Eagle Zinc Superfund Site (the ''Site''). The Consent Decree requires the Settling Defendants collectively to pay $750,000 in reimbursement of response costs at the Site. The Consent Decree further requires TLD to provide access to the Site and to agree to an restrictive environmental covenant on the Site. The Consent Decree includes a covenant not to sue under sections 106 and 107 of CERCLA and under section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication 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, D.C. 20044–7611, and should refer to in *United States* v. *T.L. Diamond & Co., Inc. et al.,* D.J. Ref. 90–11–3–08502. Commenters may request an opportunity for a public meeting in the affected area, in accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Consent Decree may be examined at the Office of the United States Attorney for the Central District of Illinois, 318 South 6th Street, Springfield, IL 62701, and at U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604. During the public comment period the Consent Decree, may also be examined on the following Department of Justice website, to *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 $11.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–7686 Filed 4–10–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0047]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Race and National Origin Identification.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 73, Number 30, pages 8365–8366 on February 13, 2008, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until May 12, 2008. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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 agencies 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.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Race and National Origin Identification.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 2931.1. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Other: none. Abstract: The information collection is used to maintain Race and National Origin data on all employees and new hires to meet diversity/EEO goals and act as a component of a tracking system to ensure that personnel practices meet the requirements of Federal laws.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 10,000 respondents, who will complete the form within approximately 3 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 500 total burden hours associated with this collection.

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

Dated: April 8, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E8–7822 Filed 4–10–08; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 17, 2007, and published in the **Federal Register** on December 27, 2007, (72 FR 73361), Organix Inc., 240 Salem Street, Woburn, Massachusetts 01801, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Cocaine (9041)	II

The company plans to manufacture the listed controlled substances in bulk for sale to its customers for research purposes.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Organix Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Organix Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: March 28, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–7080 Filed 4–10–08; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the Compact Council for the National Crime Prevention and Privacy Compact

AGENCY: Federal Bureau of Investigation.

ACTION: Meeting Notice.

SUMMARY: The purpose of this notice is to announce a meeting of the National Crime Prevention and Privacy Compact Council (Council) created by the National Crime Prevention and Privacy Compact Act of 1998 (Compact). Thus far, the Federal Government and 27 states are parties to the Compact which governs the exchange of criminal history records for licensing, employment, and similar purposes. The Compact also provides a legal framework for the establishment of a cooperative federal-state system to exchange such records.

The United States Attorney General appointed 15 persons from federal and state agencies to serve on the Council. The Council will prescribe system rules and procedures for the effective and proper operation of the Interstate Identification Index System.

Matters for discussion are expected to include:

(1) Compact Council Fingerprint Requirements Rule.

(2) Hurricane Katrina Experience Report.

(3) Outsourcing of Noncriminal Justice Administrative Functions.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public wishing to file a written statement with the Council or wishing to address this session of the Council should notify Mrs. Paula A. Barron at (304) 625–2749, at least 24 hours prior to the start of the session. The notification should contain the requestor's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topic to be addressed and the time needed for the presentation. Requesters will ordinarily be allowed up to 15 minutes to present a topic.

Dates and Times: The Council will meet in open session from 9 a.m. until 5 p.m., on May 14–15, 2008.

ADDRESSES: The meeting will take place at the Florida Hotel and Conference Center, 1500 Sand Lake Road, Orlando, Florida, telephone (407) 816–5182.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Mrs. Paula A. Barron, FBI Interim Compact Officer, Compact Council Office, Module B3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0148, telephone (304) 625–2749, facsimile (304) 625–2539.

Robert J. Casey,

Section Chief, Liaison, Advisory, Training and Statistics Section, Criminal Justice Information, Services Division, Federal Bureau of Investigation.

[FR Doc. E8–7616 Filed 4–10–08; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

April 7, 2008.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number) / e-mail: *king.darrin@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for Departmental Management (DM), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316 / Fax: 202–395–6974 (these are not toll-free numbers). E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Office of the Solicitor.

Type of Review: Extension without change of a currently approved collection.

Title: Equal Access to Justice Act.

OMB Number: 1225–0013.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 10.

Estimated Total Annual Burden Hours: 50.

Estimated Total Annual Costs Burden: $20.

Description: The Equal Access to Justice Act provides for payment of fees and expenses to eligible parties who have prevailed against the Department in certain administrative proceedings. In order to obtain an award, the statute and associated regulations (29 CFR part 16) require the filing of an application. For additional information, see related notice published at 72 FR 73373 on December 27, 2007.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E8–7705 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–22–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

141st Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 141st open meeting of the full Advisory Council on Employee Welfare and Pension Benefit Plans will be held on May 6, 2008.

The session will take place in Room S–2508, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 1:30 p.m. to approximately 4:30 p.m., is to swear in the new members, introduce the Council Chair and Vice Chair, receive an update from the Assistant Secretary of Labor for the Employee Benefits

Security Administration, and determine the topics to be addressed by the Council in 2008.

Organizations or members of the public wishing to submit a written statement may do so by submitting 25 copies on or before April 29, 2008 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue, NW., Washington, DC 20210. Statements received on or before April 29, 2008 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Larry Good by April 29 at the address indicated.

Signed at Washington, DC this 7th day of April, 2008.

Bradford P. Campbell,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. E8–7757 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,752]

Dynamerica Manufacturing LLC Muncie, IN; Notice of Affirmative Determination Regarding Application for Reconsideration

By applications dated March 18, 2008, a petitioner requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers and former workers of the subject firm. The denial notice was signed on February 20, 2008 and published in the **Federal Register** on March 7, 2008 (73 FR 12466).

The initial investigation resulted in a negative determination based on the finding that criteria I.B and II.B have not been met. There were no plant sales or production declines nor were was there a shift in production from the subject firm abroad.

In the request for reconsideration, the petitioner provided additional information regarding the production at the subject firm and requested the Department of Labor conduct further investigation regarding a shift in production from the subject firm to Mexico.

The Department has carefully reviewed the request for reconsideration and the existing record and 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 Department of Labor's prior decision. The application is, therefore, granted.

Signed in Washington, DC, this 1st day of April, 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–7736 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,771]

Parlex U.S.A. Laminated Cable Division, Methuen, MA; Notice of Affirmative Determination Regarding Application for Reconsideration

By applications dated March 28, 2008, a petitioner requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers and former workers of the subject firm. The denial notice was signed on February 14, 2008 and published in the **Federal Register** on February 29, 2008 (73 FR 11153).

The initial investigation resulted in a negative determination based on the finding that criteria (a)(2)(A)(I.A) and (a)(2)(B)(II.A) have not been met. The investigation revealed the number of workers separated during the relevant period did not constitute a significant number or proportion of the subject worker group (at least 5 percent) and there was no threat of future separations.

In the request for reconsideration, the petitioner provided additional information regarding the layoffs at the subject firm and indicated that there was a threat of worker separations at the subject firm in the future.

The Department has carefully reviewed the request for reconsideration and the existing record and 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 Department of Labor's prior decision. The application is, therefore, granted.

Signed in Washington, DC, this 1st day of April, 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–7738 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,433]

Nacom Corporation Now Known as Elcom, Inc., D/B/A Nacom, Including On-Site Leased Workers From Kelly Services and Simos, Griffin, GA; 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 Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on June 11, 2007, applicable to workers of NACOM Corporation, including on-site leased workers from Kelly Services and SIMOS, Griffin, Georgia. The notice was published in the **Federal Register** on June 28, 2007 (72 FR 35516).

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 automotive electrical junction blocks and switches.

New information shows that as of April 1, 2008, NACOM Corporation merged with Elcom, Inc. and is now known as Elcom, Inc., d/b/a NACOM.

Workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Elcom, Inc., d/b/a NACOM.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of

NACOM Corporation, now known as Elcom, Inc., d/b/a NACOM, who were adversely affected by a shift in production of automotive electrical junction blocks and switches to Mexico.

The amended notice applicable to TA–W–61,433 is hereby issued as follows:

All workers of NACOM Corporation, now known as Elcom, Inc., d/b/a NACOM, including on-site leased workers from Kelly Services and SIMOS, Griffin, Georgia, who became totally or partially separated from employment on or after April 11, 2006, through June 11, 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 1st day of April 2008.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–7734 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,355]

Quebecor World Including On-Site Leased Workers From Westaff, DC Staffing Services and Driver Leasing Midwest, Inc., Brookfield, WI; 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 May 30, 2006, applicable to workers of Quebecor World, including leased on-site workers of Westaff and DC Staffing Services, Brookfield, Wisconsin. The notice was published in the **Federal Register** on June 22, 2006 (71 FR 35949).

At the request of the petitioner and the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production (printing) of magazines and catalogs.

New information shows that leased workers of Driver Leasing Midwest, Inc. were employed on-site at the Brookfield, Wisconsin location of Quebecor World. 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 Driver Leasing Midwest, Inc. working on-site at the Brookfield, Wisconsin location of the subject firm.

The intent of the Department's certification is to include all workers employed at Quebecor World, Brookfield, Wisconsin who were adversely affected by a shift in production of (print) magazines and catalogs to Canada.

The amended notice applicable to TA–W–59,355 is hereby issued as follows:

All workers of Quebecor World, including on-site leased workers of Westaff, DC Staffing Services and Driver Leasing Midwest, Inc., Brookfield, Wisconsin, who became totally or partially separated from employment on or after May 8, 2005, through May 30, 2008, 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 2nd day of April 2008.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–7732 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,754]

Silicon Laboratories, Inc., Including On-Site Temporary Workers From TRC Staffing, Austin, TX; 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 22, 2008, applicable to workers of Silicon Laboratories, Inc., Austin, Texas. The notice was published in the **Federal Register** on March 7, 2008 (73 FR 12466).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in functions relating to designing and testing of silicon chips.

New information shows that temporary workers of TRC Staffing were employed on-site at the Austin, Texas location of Silicon Laboratories, Inc. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered temporary workers.

Based on these findings, the Department is amending this certification to include temporary workers of TRC Staffing working on-site at the Austin, Texas location of the subject firm.

The intent of the Department's certification is to include all workers employed at Silicon Laboratories, Inc., Austin, Texas who were adversely affected by a shift in production of silicon chips to Singapore.

The amended notice applicable to TA–W–62,754 is hereby issued as follows:

All workers of Silicon Laboratories, Inc., including on-site temporary workers from TRC Staffing, Austin, Texas, who became totally or partially separated from employment on or after January 28, 2007, through February 22, 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 1st day of April 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–7737 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,639]

Solectron Corporation Currently Known as Flextronics America, LLC Design and Engineering Charlotte, NC; 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 Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade

Adjustment Assistance on September 5, 2006, applicable to workers of Solectron Corporation, Design and Engineering, Charlotte, North Carolina. The notice was published in the **Federal Register** on September 21, 2006 (71 FR 55218).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of test equipment used in the development of printed circuit boards and electronic storage.

New information shows that Flextronics America, LLC purchased Solectron Corporation in October 2007 and is currently known as Flextronics America, LLC.

Accordingly, the Department is amending this certification to show that Solectron Corporation is currently known as Flextronics America, LLC.

The intent of the Department's certification is to include all workers of Solectron Corporation, Design and Engineering, currently known as Flextronics America, LLC who were adversely affected by a shift in production of test equipment to Mexico and China.

The amended notice applicable to TA–W–59,639 is hereby issued as follows:

All workers of Solectron Corporation, currently known as Flextronics America, LLC, Design and Engineering, Charlotte, North Carolina, who became totally or partially separated from employment on or after June 7, 2005, through September 5, 2008, 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 April 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–7733 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,283; TA–W–59,283A]

Staktek Group L.P., Currently Known as Entorian Technologies L.P., Austin, TX; Including an Employee of Staktek Group L.P., Currently Known as Entorian Technologies L.P., Austin, TX Located In Poughquag, NY; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Negative Determination Regarding Eligibility to Apply for 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 Regarding Eligibility to Apply for Worker Adjustment Assistance and a Negative Determination Regarding Eligibility to Apply for Alternative Trade Adjustment Assistance on June 7, 2006, applicable to workers of Staktek Group L.P., Austin, Texas. The notice was published in the **Federal Register** on July 14, 2006 (71 FR 40159).

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 stacked memory chips.

New information shows that following a corporate decision, as of March 5, 2008, Staktek Group L.P. is now known as Entorian Technologies L.P.

Workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Entorian Technologies L.P.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Staktek Group L.P., currently known as Entorian Technologies L.P. who were adversely affected by a shift in production of stacked memory chips to Mexico.

The amended notice applicable to TA–W–59,283 and TA–W–59,283A are hereby issued as follows:

All workers of Staktek Group L.P., currently known as Entorian Technologies L.P., Austin, Texas (TA–W–59,283), and including an employee located in Poughquag, New York (TA–W–59,283A), who became totally or partially separated from employment on or after April 25, 2005, through June 7, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I further determine that all workers of Staktek Group L.P., currently known as Entorian Technologies L.P., Austin, Texas are denied eligibility to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of March 2008.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–7731 Filed 4–10–08; 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 *March 24 through March 28, 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.

TA–W–62,911; General Electric—Niles Glass Plant, Niles, OH: February 19, 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) 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–63,027; Coleman Powermate, Springfield, MN: March 18, 2007.

TA–W–62,639; Bombardier Transportation, Propulsion Division, Pittsburgh, PA: December 31, 2006.

TA–W–62,639A; Bombardier Transportation, Total Transit Systems Division, Pittsburgh, PA: December 31, 2006.

TA–W–62,757; Meadowcraft, Inc., Birmingham, AL: January 26, 2007.

TA–W–62,768; North Barre Granite, Barre, VT: January 21, 2007.

TA–W–62,841; Rock of Ages Corporation, Quarry Division, Graniteville, VT: January 17, 2007.

TA–W–62,931; Laser Tek Industries, Inc., Richmond, IL: February 28, 2007.

TA–W–62,959; O'Sullivan Films, Inc., Lebanon, PA: March 4, 2007.

TA–W–62,973; Griffin Manufacturing Company, Inc., Fall River, MA: March 5, 2007.

TA–W–63,000; Chrysler LLC, Manufacturing Truck & Activity Div. Jeff No. Assembly, Detroit, MI: March 12, 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–62,732; Great Circle Ventures Holding, dba Tail Activewear, Miami, FL: January 18, 2007.

TA–W–62,924; Techpack America, Inc., Morristown, TN: February 27, 2007.

TA–W–62,953; Sensata Technologies, Power Controls Frederick Division, A Subsidiary of Sensata Technologies, Airpax, Frederick, MD: March 3, 2007.

TA–W–62,980; Pactiv Corporation, Yakima, WA: March 10, 2007.

TA–W–62,912; Sensata Technologies, Power Controls Division, Formerly Known as Airpax Corp., Cambridge, MD: February 14, 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–62,868; Metal Technologies, Inc., West Allis Gray Iron Plant, West Allis, WI: February 18, 2007.

TA–W–62,986; Cabot Corporation, Waverly, WV: March 7, 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.

TA–W–62,911; General Electric—Niles Glass Plant, Niles, OH.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–63,032; Wrights Factory Outlet, A Subsidiary of William Wright Company, Fiskdale, MI.

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–62,945; Federal Mogul, Lighting Products Division, Boyertown, IL.

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–62,150; Qiagen, Formerly Known as Gentra, Plymouth, PA.

TA–W–62,777; Brunswick Bowling & Billiards, Antigo, PA.

TA–W–62,832; GAF Materials Corporation, Quakertown, AL.

TA–W–62,848; Android Industries Springfield, LLC, Springfield, VT.

TA–W–62,964; G–III Apparel Group, Starlo Dresses Division, Computer Patterns Team, New York, MA.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–62,851; Auto Truck Transport, Mount Holly, North Carolina Terminal, Mt. Holly, VT.

TA–W–62,958; Auburn Hosiery Mills, Inc., Auburn, PA.

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 *March 24 through March 28, 2008.* Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 4, 2008.

Erin Fitzgerald,

Acting Director, Division of Trade Adjustment Assistance.

[FR Doc. E8–7743 Filed 4–10–08; 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 April 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 April 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 3rd day of April 2008.

Erin FitzGerald,

Acting Director, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 3/24/08 and 3/28/08]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
63053	Mohawk ESV, Inc. (Wkrs)	Hiawassee, GA	03/24/08	03/12/08
63054	Skynet Satellite Corporation (Rep)	Hawley, PA	03/24/08	03/21/08
63055	GE Zenith Controls (Comp)	Bonham, TX	03/24/08	03/12/08
63056	Eaton Corporation (Comp)	Oxford, MI	03/24/08	03/18/08
63057	Cytec Industries (USW)	Willow Island, WV	03/24/08	03/20/08

APPENDIX—Continued

[TAA petitions instituted between 3/24/08 and 3/28/08]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
63058	Mizuno Automotive USA Inc. (Comp)	Morristown, TN	03/25/08	03/24/08
63059	Springs Global—Griffin Finishing (Comp)	Griffin, GA	03/25/08	03/24/08
63060	Keith Brown Building Materials (Wkrs)	Madras, OR	03/25/08	03/24/08
63061	Springs Direct Division (Wkrs)	Lancaster, SC	03/25/08	03/05/08
63062	Donna's Distribution (Wkrs)	Chicago, IL	03/25/08	03/14/08
63063	Hickory Hill Furniture Corporation (Wkrs)	Valdese, NC	03/25/08	03/17/08
63064	ITT MFC FC—Alcon/ECI (Comp)	San Dimas, CA	03/25/08	03/24/08
63065	Power One (Wkrs)	Andover, MA	03/25/08	03/13/08
63066	Legget and Platt—Branch 0612 (Rep)	Georgetown, KY	03/25/08	03/24/08
63067	Heatcraft Refrigeration (Union)	Danville, IL	03/26/08	03/25/08
63068	R.T. Vanderbilt—Gouverneur Tale Division (USW)	Gouverneur, NY	03/26/08	03/24/08
63069	Milprint, Division of Bemis, Inc. (Wkrs)	Lancaster, WI	03/26/08	03/25/08
63070	Alamac American Knits (Comp)	Lumberton, NC	03/26/08	03/18/08
63071	Rohm and Haas Electronic Material (State)	Marlborough, MA	03/26/08	03/26/08
63072	Jockey International, Inc. (Comp)	Racine, WI	03/26/08	03/25/08
63073	Oberg Industries (Comp)	Chandler, AZ	03/26/08	03/25/08
63074	Pfizer, Inc. (State)	Groton, CT	03/26/08	03/25/08
63075	Russound FMP (Wkrs)	New Market, NH	03/27/08	03/26/08
63076	Aon Service Corporation (State)	Saint Louis, MO	03/27/08	03/11/08
63077	Indalex Aluminum Solutions (USW)	Girard, OH	03/27/08	03/26/08
63078	Mavrick Metal Stampings, Inc. (Comp)	Mancelona, MI	03/27/08	03/26/08
63079	Redman Homes, Inc. (Comp)	Silverton, OR	03/27/08	03/26/08
63080	Chrysler, LLC (UAW)	Belvidere, IL	03/27/08	03/26/08
63081	Russell Corporation/Cross Creek Apparel (Comp)	Mount Airy, NC	03/27/08	03/26/08
63082	Nortel (Wkrs)	Research Triangle Park, NC.	03/27/08	12/14/07
63083	Performance Fibers Winfield (Comp)	Winfield, AL	03/27/08	03/26/08
63084	Prime Health Care (State)	Anaheim, CA	03/27/08	03/26/08
63085	Trimtex Company, Inc. (Comp)	Williamsport, PA	03/27/08	03/24/08
63086	K-Industries (USA), LLC (Comp)	Riviera Beach, FL	03/28/08	03/27/08
63087	G8 Fashion, Inc. (Wkrs)	New York, NY	03/28/08	03/19/08
63088	Mount Vernon Mills Brenham Greige Fabrics Weaving Plant (Comp)	Brenham, TX	03/28/08	03/19/08
63089	Garment Technology, Inc. (Comp)	Gaffney, SC	03/28/08	03/27/08
63090	Bright Wood Corporation (State)	Bend, OR	03/28/08	03/27/08
63091	Far North Windows and Doors (State)	Champlin, MN	03/28/08	03/27/08

[FR Doc. E8–7742 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,630]

Llink Technologies, LLC, Brown City, MI; Notice of Revised Determination on Reconsideration

On March 11, 2008, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on March 21, 2008 (73 FR 15216).

The previous investigation initiated on January 3, 2008, resulted in a negative determination issued on January 29, 2008, was based on the finding that imports of interior trim automotive components and subassemblies did not contribute importantly to worker separations at the subject firm and no shift in production to a foreign source occurred. The denial notice was published in the **Federal Register** on February 13, 2008 (73 FR 8370).

In the request for reconsideration, the petitioner provided additional information regarding the subject firm's declining customers.

The Department contacted a company official and requested an additional list of declining customers. Based on new information, the Department further conducted a survey of major declining customers regarding purchases of interior trim automotive components during 2006, 2007 and January through February 2008 over the corresponding 2007 period. The survey revealed that a major declining customer increased their imports of interior trim automotive components from 2006 to 2007 and during January through February of 2008 over the corresponding 2007 period.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Llink Technologies, LLC, Brown City, Michigan, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject

firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Llink Technologies, LLC, Brown City, Michigan, who became totally or partially separated from employment on or after January 2, 2007, through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC this 4th day of April 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–7744 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,702]

Merix Corporation Including On-Site Leased Workers From Kelly Services Wood Village, Oregon; Notice of Revised Determination on Reconsideration

By application postmarked March 18, 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) and Alternative Trade Adjustment Assistance (ATAA).

The initial investigation resulted in a negative determination signed on March 4, 2008, was based on the finding that even though there was a shift in production from the subject firm to China, imports of inner layer panels that are used in the production of printed circuit boards did not contribute importantly to worker separations at the subject plant. The denial notice was published in the **Federal Register** on March 21, 2008 (73 FR 15218).

In the request for reconsideration, the petitioner provided additional information regarding the subject firm's domestic production of inner layer panels for printed circuit boards and imports of these products into the United States.

The Department contacted the company official to verify whether the subject firm imported inner layer panels upon shifting production of these products from the subject firm to China. The investigation on reconsideration revealed that the subject firm increased imports of inner layer panels from 2006 to 2007. It was also revealed that employment and sales of inner layer panels declined at Merix Corporation, Wood Village, Oregon during the relevant period.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the facts obtained in the investigation, I determine that increases of imports of inner layer panels that are used in the production of printed circuit boards, produced by Merix Corporation, Wood Village, Oregon, contributed importantly to the total or partial separation of workers and to the decline in sales or production at that firm or subdivision. In accordance with the provisions of the Act, I make the following certification:

All workers of Merix Corporation, including on-site leased workers from Kelly Services, Wood Village, Oregon, who became totally or partially separated from employment on or after January 18, 2007, through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 1st day of April, 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–7735 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,902]

Esselte Corporation, a Subsidiary of Esselte Holdongs, Inc.; Including On-Site Leased Workers From People Link Staffing and Manpower, Kankakee, IL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 18, 2007 in response to a petition filed by a company official on behalf of workers of Esselte Corporation, a subsidiary of Esselte Holdings, Inc., Kankakee, Illinois. The workers at the subject firm produce portfolios and expanding jackets.

The subject firm leased workers from People Link Staffing and Manpower to work on-site to produce portfolios and expanding jackets.

The petitioning group of workers is covered by an active certification, (TA–W–61,091) which expires on April 20, 2009. Consequently, further investigation in this case would serve no purpose, and this case has been terminated.

Signed at Washington, DC, this 31st day of March 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–7739 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,922]

Kodyn Products Company, Loyalhanna, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 28, 2008 in response to a worker petition filed by a company official on behalf of workers of Kodyn Products Company, Loyalhanna, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 3rd day of April 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–7740 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,952]

NewPage Corporation, Niagara Mill, Niagara, WI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 5, 2008 in response to a petition filed by a company official on behalf of workers at NewPage Corporation, Niagara Mill, Niagara, Wisconsin. The workers at the subject facility produce coated mechanical printing paper.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 4th day of April 2008.

Richard Church

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–7745 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,971]

Southern Furniture, Inc., Conover, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 7, 2008 in response to a petition filed by a company official on behalf of workers of Southern Furniture, Inc., Conover, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 1st day of April 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–7730 Filed 4–10–08; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collections described in this notice. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before May 12, 2008 to be assured of consideration.

ADDRESSES: Send comments to Desk Officer for NARA, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5167.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301–837–1694 or fax number 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for these information collections on January 29, 2008 (73 FR 5214). One comment was received. NARA has submitted the described information collections to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collections are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (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 these collections. In this notice, NARA is soliciting comments concerning the following information collections:

Title: NARA Visitors Study.

OMB number: 3095–00XX.

Agency form number: N/A.

Type of review: Regular.

Affected public: Individuals who visit the National Archives Experience in Washington, DC.

Estimated number of respondents: 200.

Estimated time per response: 12 minutes.

Frequency of response: On occasion (when an individual visits the National Archives Experience in Washington, DC).

Estimated total annual burden hours: 40 hours.

Abstract: The general purpose of this voluntary data collection is to benchmark the performance of the NAE in relation to other history museums. Information collected from visitors will assess the overall impact, expectations, presentation, logistics, motivation, demographic profile and learning experience. Once analysis has been done, this collected information will assist NARA in determining the NAE's success in achieving its goals.

Dated: April 7, 2008.

Martha Morphy,

Assistant Archivist for Information Services.

[FR Doc. E8–7721 Filed 4–10–08; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on the Electronic Records Archives

AGENCY: National Archives and Records Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), the National Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on the Electronic Records Archives (ACERA). The committee serves as a deliberative body to advise the Archivist of the United States, on technical, mission, and service issues related to the Electronic Records Archives (ERA). This includes, but is not limited to, advising and making recommendations to the Archivist on issues related to the development, implementation and use of the ERA system.

Date of Meeting: April 30–May 1, 2008.

Time of Meeting: 9 a.m.–4 p.m.

Place of Meeting: 700 Pennsylvania Avenue, NW., Washington, DC 20408–0001.

This meeting will be open to the public. However, due to space limitations and access procedures, the name and telephone number of individuals planning to attend must be submitted to the Electronic Records Archives Program at *era.program@nara.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

- Opening Remarks
- Approval of Minutes
- Committee Updates
- Activities Reports
- Adjournment

FOR FURTHER INFORMATION CONTACT: Adrienne Thomas, Deputy Archivist/ Chief of Staff; (301) 837–1600.

Dated: April 7, 2008.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. E8–7717 Filed 4–10–08; 8:45 am]

BILLING CODE 7515–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

Notice of Cancellation of the Environmental Impact Statement for the Proposed Big Sandy Casino and Resort, Fresno County, CA

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the National Indian Gaming Commission (NIGC) is no longer participating in the preparation of the Environmental Impact Statement (EIS) for the Big Sandy Casino and Resort to be located in Fresno County, CA. The NIGC's federal action that was being evaluated was approval of a management contract between the Big Sandy Rancheria of Mono Indians (Tribe) and QBS, LLC. On October 19, 2007 and at the request of the Tribe, the management contract approval request was deemed withdrawn. As a result, the NIGC no longer has a federal action that requires compliance with NEPA and is therefore no longer participating in the preparation of the EIS for the Big Sandy Casino and Resort.

DATES: Effective Immediately.

ADDRESSES: Questions regarding this notice should be addressed to: Brad Mehaffy, NEPA Compliance Officer, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005 (or) fax to: Brad Mehaffy at 202–632–7066 (this is not a toll free call).

FOR FURTHER INFORMATION CONTACT: Brad Mehaffy, (202) 632–7003.

SUPPLEMENTARY INFORMATION: The NIGC issued a Notice of Intent to prepare and EIS on August 12, 2005, in the **Federal Register** (70 FR 47262). The notice included project details.

Dated: April 2, 2008.

Philip N. Hogen,

Chairman, National Indian Gaming Commission.

[FR Doc. E8–7766 Filed 4–10–08; 8:45 am]

BILLING CODE 7565–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Cyberinfrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Cyberinfrastructure (25150).

Date and Time: May 15, 2008, 10 a.m.–5p.m.; May 16, 2008, 8 a.m.–12 noon.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Judy Hayden, Office of the Director, Office of Cyberinfrastructure (OD/OCI), National Science Foundation, 4201 Wilson Blvd., Suite 1145, Arlington, VA 22230, Telephone: 703–292–8970.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To advise NSF on the impact of its policies, programs and activities on the CI community. To provide advice to the Director/NSF on issues related to long-range planning, and to form ad hoc subcommittees to carry out needed studies and tasks.

Agenda: Report from the Director. Discussion of CI research initiatives, and long-range funding outlook for CI.

Dated: April 8, 2008.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E8–7704 Filed 4–10–08; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–014 and 52–015]

Tennesse Valley Authority; Notice of Extension of Time for Petition for Leave To Intervene on a Combined License Application for Bellefonte Units 3 and 4

The Secretary of the Commission has issued an Order granting a 60-day extension for interested persons to file a petition for leave to intervene in the proceeding regarding the application for a Combined Operating License for Bellefonte Units 3 and 4. The 60-day extension runs from the date of the order, April 7, 2008. Petitions for leave to intervene must comply with the procedural requirements for E-Filing, as described in the original **Federal Register** notice for this proceeding dated February 8, 2008. 73 Fed. Reg. 7611. The Bellefonte application references proposed amendments to a certified design. Documents associated with these amendments are available under NRC docket number 52–006. 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, and will be accessible electronically through the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room link 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 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 7th day of April 2008.

For the U.S. Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E8–7729 Filed 4–10–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Subcommittee Meeting on Thermal-Hydraulic Phenomena; Cancelled; Notice of Cancelled Meeting

The **Federal Register** Notice for the ACRS Subcommittee meeting on Thermal-Hydraulic Phenomena scheduled to be held on Tuesday, April 8, 2008 has been cancelled. This meeting was published previously in the **Federal Register** on Friday, March 28, 2008 (73 FR 16731).

For Further Information Contact: Mr. David Bessette, Designated Federal Official (Telephone: 301–415–8065) between 7:45 a.m. and 4:30 p.m. (ET) or by e-mail at *David.Bessette@nrc.gov.*

Dated: April 4, 2008.

Cayetano Santos,

Branch Chief, ACRS.

[FR Doc. E8–7712 Filed 4–10–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS)

Meeting of the Subcommittee on Digital Instrumentation and Control Systems; Notice of Meeting

The ACRS Subcommittee on Digital Instrumentation and Control Systems will hold a meeting on April 17, 2008, Room T–2B3, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, April 17, 2008—8:30 a.m. until the conclusion of business

The Subcommittee will hold discussions with representatives of the NRC staff and the industry regarding digital instrumentation and control systems issues. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, the industry, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Girija Shukla (telephone 301/415–6855) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:15 a.m. and 5 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: April 3, 2008.

Harold VanderMolen,

Acting Branch Chief, ACRS.

[FR Doc. E8–7715 Filed 4–10–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–68; EA–08–069]

In the Matter of Exelon Generation Company Byron Generating Station Independent Spent Fuel Installation Order Modifying License (Effective Immediately)

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Issuance of Order for Implementation of Additional Security Measures and Fingerprinting for Unescorted Access to Exelon Generation Company, LLC.

FOR FURTHER INFORMATION CONTACT: L. Raynard Wharton, Senior Project Manager, Licensing and Inspection Directorate, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards (NMSS), U.S. Nuclear Regulatory Commission (NRC), Rockville, MD 20852. Telephone: (301) 492–3316; fax number: (301) 492–3350; e-mail: *LRaynard.Wharton@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to 10 CFR 2.106, NRC (or the Commission) is providing notice, in the matter of Byron Generating Station Independent Spent Fuel Storage Installation (ISFSI) Order Modifying License (Effective Immediately).

II. Further Information

I

NRC has issued a general license to Exelon Generating Company, LLC (Exelon), authorizing the operation of an ISFSI, in accordance with the Atomic Energy Act of 1954, as amended, and Title 10 of the *Code of Federal Regulations* (10 CFR) Part 72. This Order is being issued to Exelon, which has identified near-term plans to store spent fuel in an ISFSI under the general license provisions of 10 CFR Part 72. The Commission(s regulations at 10 CFR 72.212(b)(5) and 10 CFR 73.55(h)(1) require Exelon to maintain safeguards contingency plan procedures to respond to threats of radiological sabotage and to protect the spent fuel against the threat of radiological sabotage, in accordance with 10 CFR Part 73, Appendix C. Specific safeguards requirements are contained in 10 CFR 73.51 or 73.55, as applicable.

Inasmuch as an insider has an opportunity equal to, or greater than, any other person, to commit radiological sabotage, the Commission has determined these measures to be prudent. Comparable Orders have been issued to all licensees that currently store spent fuel or have identified near-term plans to store spent fuel in an ISFSI.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, using large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees, to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. On October 16, 2002, the Commission issued Orders to the licensees of operating ISFSIs, to place the actions taken in response to the Advisories into the established regulatory framework and to implement additional security enhancements that emerged from NRC's ongoing comprehensive review. The Commission has also communicated with other Federal, State, and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has conducted a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures (ASMs) are required to address the current threat environment, in a consistent manner throughout the nuclear ISFSI community. Therefore, the Commission is imposing requirements, as set forth in Attachments 1 and 2 of this Order, on all licensees of these facilities. These requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that Exelon may have already initiated many of the measures set forth in Attachments 1 and 2 to this Order, in response to previously issued advisories, or on their own. It also recognizes that some measures may not be possible nor necessary at some sites, or may need to

be tailored to accommodate the specific circumstances existing at the licensee's facility, to achieve the intended objectives and avoid any unforeseen effect on the safe storage of spent fuel.

Although the ASMs implemented by licensees in response to the Safeguards and Threat Advisories have been sufficient to provide reasonable assurance of adequate protection of public health and safety, the Commission concludes that these actions must be supplemented further because the current threat environment continues to persist. Therefore, it is appropriate to require certain ASMs, and these measures must be embodied in an Order, consistent with the established regulatory framework.

To provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, Exelon's license issued pursuant to 10 CFR 72.210 shall be modified to include the requirements identified in Attachments 1 and 2 to this Order. In addition, pursuant to 10 CFR 2.202, I find that, in light of the common defense and security circumstances described above, the public health, safety, and interest require that this Order be effective immediately.

III

Accordingly, pursuant to sections 53, 103, 104, 147, 149, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 50, 72, and 73, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT YOUR GENERAL LICENSE IS MODIFIED AS FOLLOWS:

A. Exelon shall comply with the requirements described in Attachments 1 and 2 to this Order, except to the extent that a more stringent requirement is set forth in Exelon's security plan. Exelon shall immediately start implementation of the requirements in Attachments 1 and 2 to the Order and shall complete implementation no later than 180 days from the date of this Order, with the exception of the ASM B.4 of Attachment 1 [''Additional Security Measures (ASMs) for Physical Protection of Dry Independent Spent Fuel Storage Installations (ISFSIs)''], which shall be implemented no later than 365 days from the date of this Order. In any event, Exelon shall complete implementation of all ASMs before the first day that spent fuel is initially placed in the ISFSI.

B. 1. Exelon shall, within twenty (20) days of the date of this Order, notify the Commission: (1) If it is unable to comply with any of the requirements described in Attachments 1 and 2; (2) if compliance with any of the requirements is unnecessary, in its specific circumstances; or (3) if implementation of any of the requirements would cause Exelon to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide Exelon's justification for seeking relief from, or variation of, any specific requirement.

2. If Exelon considers that implementation of any of the requirements described in Attachments 1 and 2 to this Order would adversely impact the safe storage of spent fuel, Exelon must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in Attachments 1 and 2 requirements in question, or a schedule for modifying the facility, to address the adverse safety condition. If neither approach is appropriate, Exelon must supplement its response, to Condition B.1 of this Order, to identify the condition as a requirement with which itcannot comply, with attendant justifications, as required under Condition B.1.

C. 1. Exelon shall, within twenty (20) days of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in Attachments 1 and 2.

2. Exelon shall report to the Commission when it has achieved full compliance with the requirements described in Attachments 1 and 2.

D. All measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.

Exelon's response to Conditions B.1, B.2, C.1, and C.2, above, shall be submitted in accordance with 10 CFR 72.4. In addition, submittals that contain Safeguards Information shall be properly marked and handled, in accordance with 10 CFR 73.21.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions, for good cause.

IV

In accordance with 10 CFR 2.202, Exelon must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of the date of the Order. In addition, Exelon and any other person adversely affected by this Order, may request a hearing on this Order within 20 days of the date of the Order. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be made, in writing, to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension.

The answer may consent to this Order. If the answer includes a request for a hearing, it shall, under oath or affirmation, specifically set forth the matters of fact and law on which Exelon relies and the reasons as to why the Order should not have been issued. If a person other than Exelon requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

A request for a hearing must be filed in accordance with the NRC E–Filing rule, which became effective on October 15, 2007. The NRC E–Filing Final Rule was issued on August 28, 2007 (72 FR 49139), and codified in pertinent part at 10 CFR Part 2, Subpart B. The E–Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek waivers in accordance with the procedures described below.

To comply with the procedural requirements associated with E–Filing, at least five (5) days prior to the filing deadline the 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 NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding [even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate]. Each 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 also is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, he/she can then submit a request for a hearing through EIE. 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 document through EIE. To be timely, electronic filings 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 document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for, and receive digital ID certificates before a hearing requests are filed so that they may obtain access to the documents 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 good cause for not submitting documents electronically must file motions, in accordance with 10 CFR 2.302(g), with their initial paper filings 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.

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 works.

If a hearing is requested by Exelon or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Exelon may, in addition to requesting a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence, but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions as specified in section III shall be final twenty (20) days from the date of this Order, without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions, as specified in section III, shall be final when the extension expires, if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated at Rockville, Maryland, this 2nd day of April, 2008.

For The Nuclear Regulatory Commission.

Eric J. Leeds,

Deputy Director, Office of Nuclear Material Safety, and Safeguards.

Attachment 1—Additional Measures (ASMs) for Physical Protection of Dry Independent Spent Fuel Storage Installations (ISFSIs) Contains Safeguards Information and Is Not Included in the Federal Register Notice

Attachment 2—Additional Security Measures for Access Authorization and Fingerprinting at Independent Spent Fuel Storage Installations

A. General Basis Criteria

1. These additional security measures (ASMs) are established to delineate an independent spent fuel storage installation (ISFSI) licensee's responsibility to enhance security measures related to authorization for unescorted access to the protected area of an ISFSI in response to the current threat environment.

2. Licensees whose ISFSI is collocated with a power reactor may choose to comply with the NRC-approved reactor access authorization program for the associated reactor as an alternative means to satisfy the provisions of sections B through G below. Otherwise, licensees shall comply with the access authorization and fingerprinting requirements of section B through G of these ASMs.

3. Licensees shall clearly distinguish in their 20-day response which method they intend to use in order to comply with these ASMs.

B. Additional Security Measures for Access Authorization Program

1. The licensee shall develop, implement and maintain a program, or enhance their existing program, designed to ensure that persons granted unescorted access to the protected area of an ISFSI are trustworthy and reliable and do not constitute an unreasonable risk to the public health and safety or the common defense and security, including a potential to commit radiological sabotage.

a. To establish trustworthiness and reliability, the licensee shall develop, implement, and maintain procedures for conducting and completing background investigations, prior to granting access. The scope of background investigations must address at least the past 3 years and, as a minimum, must include:

i. Fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check (CHRC). Where an applicant for unescorted access has been previously fingerprinted with a favorably completed CHRC, (such as a CHRC pursuant to compliance with orders for access to safeguards information) the licensee may accept the results of that CHRC, and need not submit another set of fingerprints, provided the CHRC was completed not more

than 3 years from the date of the application for unescorted access.

ii. Verification of employment with each previous employer for the most recent year from the date of application.

iii. Verification of employment with an employer of the longest duration during any calendar month for the remaining next most recent two years.

iv. A full credit history review.

v. An interview with not less than two character references, developed by the investigator.

vi. A review of official identification (e.g., driver's license, passport, government identification, state, province or country of birth issued certificate of birth) to allow comparison of personal information data provided by the applicant. The licensee shall maintain a photocopy of the identifying document(s) on file, in accordance with ''Protection of Information,'' Section G of these ASMs.

vii. Licensees shall confirm eligibility for employment through the regulations of the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), and shall verify and ensure to the extent possible, the accuracy of the provided social security number and alien registration number as applicable.

b. The procedures developed or enhanced shall include measures for confirming the term, duration, and character of military service, and academic enrollment and attendance in lieu of employment, for the past 3 and 5 years respectively.

c. Licensees need not conduct an independent investigation for individuals employed at a facility who possess active ''Q'' or ''L'' clearances or possess another active U.S. Government granted security clearance, i.e., Top Secret, Secret or Confidential.

d. A review of the applicant's criminal history, obtained from local criminal justice resources, may be included in addition to the FBI CHRC, and is encouraged if the results of the FBI CHRC, employment check, or credit check disclose derogatory information. The scope of the applicant's local criminal history check shall cover all residences of record for the past 3 years from the date of the application for unescorted access.

2. The licensee shall use any information obtained as part of a CHRC solely for the purpose of determining an individual's suitability for unescorted access to the protected area of an ISFSI.

3. The licensee shall document the basis for its determination for granting or denying access to the protected area of an ISFSI.

4. The licensee shall develop, implement, and maintain procedures for updating background investigations for persons who are applying for reinstatement of unescorted access. Licensees need not conduct an independent reinvestigation for individuals who possess active ''Q'' or ''L'' clearances or possess another active U.S. Government granted security clearance, i.e., Top Secret, Secret or Confidential.

5. The licensee shall develop, implement, and maintain procedures for reinvestigations of persons granted unescorted access, at intervals not to exceed 5 years. Licensees need not conduct an independent reinvestigation for individuals employed at a facility who possess active ''Q'' or ''L'' clearances or possess another active U.S. Government granted security clearance, i.e., Top Secret, Secret or Confidential.

6. The licensee shall develop, implement, and maintain procedures designed to ensure that persons who have been denied unescorted access authorization to the facility are not allowed access to the facility, even under escort.

7. The licensee shall develop, implement, and maintain an audit program for licensee and contractor/vendor access authorization programs that evaluate all program elements and include a person knowledgeable and practiced in access authorization program performance objectives to assist in the overall assessment of the site's program effectiveness.

C. Fingerprinting Program Requirements

1. In a letter to the NRC, the licensee must nominate an individual who will review the results of the FBI CHRCs to make trustworthiness and reliability determinations for unescorted access to an ISFSI. This individual, referred to as the ''reviewing official,'' must be someone who requires unescorted access to the ISFSI. The NRC will review the CHRC of any individual nominated to perform the reviewing official function. Based on the results of the CHRC, the NRC staff will determine whether this individual may have access. If the NRC determines that the nominee may not be granted such access, that individual will be prohibited from obtaining access.[1] Once the NRC approves a reviewing official, the reviewing official is the only individual permitted to make access determinations for other individuals who have been identified by the licensee as having the need for unescorted access to the ISFSI, and have been fingerprinted and have had a CHRC in accordance with these ASMs. The reviewing official can only make access determinations for other individuals, and therefore cannot approve other individuals to act as reviewing officials. Only the NRC can approve a reviewing official. Therefore, if the licensee wishes to have a new or additional reviewing official, the NRC must approve that individual before he or she can act in the capacity of a reviewing official.

2. No person may have access to SGI or unescorted access to any facility subject to NRC regulation if the NRC has determined, in accordance with its administrative review process based on fingerprinting and an FBI identification and CHRC, that the person may not have access to SGI or unescorted access to any facility subject to NRC regulation.

3. All fingerprints obtained by the licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI.

4. The licensee shall notify each affected individual that the fingerprints will be used to conduct a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the ''Right to Correct and Complete Information'' in section F of these ASMs.

5. Fingerprints need not be taken if the employed individual (e.g., a licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR 73.61, has a favorably adjudicated U.S. Government CHRC within the last five (5) years, or has an active federal security clearance. Written confirmation from the Agency/employer who granted the federal security clearance or reviewed the CHRC must be provided to the licensee. The licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires access to the facility.

D. Prohibitions

1. A licensee shall not base a final determination to deny an individual unescorted access to the protected area of an ISFSI solely on the basis of information received from the FBI involving: An arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

2. A licensee shall not use information received from a CHRC obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

E. Procedures for Processing Fingerprint Checks

1. For the purpose of complying with this Order, licensees shall, using an appropriate method listed in 10 CFR 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop T–6E46, one completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking unescorted access to an ISFSI, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling (301) 415–5877, or by e-mail to *forms@nrc.gov*. Practicable alternative formats are set forth in 10 CFR 73.4. The licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

2. The NRC will review submitted fingerprint cards for completeness. Any Form FD–258 fingerprint record containing omissions or evident errors will be returned to the licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free resubmission must have the FBI Transaction Control Number reflected on the

[1] The NRC's determination of this individual's unescorted access to the ISFSI, in accordance with the process is an administrative determination that is outside the scope of the Order.

re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

3. Fees for processing fingerprint checks are due upon application. The licensee shall submit payment of the processing fees electronically. In order to be able to submit secure electronic payments, licensees will need to establish an account with Pay.Gov *(https://www.pay.gov).* To request an account, the licensee shall send an e-mail to *det@nrc.gov.* The e-mail must include the licensee's company name, address, point of contact (POC), POC e-mail address, and phone number. The NRC will forward the request to Pay.Gov; who will contact the licensee with a password and user lD. Once licensees have established an account and submitted payment to Pay.Gov, they shall obtain a receipt. The licensee shall submit the receipt from Pay.Gov to the NRC along with fingerprint cards. For additional guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415–7739. Combined payment for multiple applications is acceptable. The application fee (currently $36) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of licensee fingerprint submissions. The Commission will directly notify licensees who are subject to this regulation of any fee changes.

4. The Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks, including the FBI fingerprint record.

F. Right To Correct and Complete Information

1. Prior to any final adverse determination, the licensee shall make available to the individual the contents of any criminal history records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the licensee for a period of one (1) year from the date of notification.

2. If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537–9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of a FBI CHRC after the record is made available for his/her review. The licensee may make a final access determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to an ISFSI, the licensee shall provide the individual its documented basis for denial. Access to an ISFSI shall not be granted to an individual during the review process.

G. Protection of Information

1. The licensee shall develop, implement, and maintain a system for personnel information management with appropriate procedures for the protection of personal, confidential information. This system shall be designed to prohibit unauthorized access to sensitive information and to prohibit modification of the information without authorization.

2. Each licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures, for protecting the record and the personal information from unauthorized disclosure.

3. The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining suitability for unescorted access to the protected area of an ISFSI. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have the appropriate need-to-know.

4. The personal information obtained on an individual from a criminal history record check may be transferred to another licensee if the gaining licensee receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

5. The licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

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BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Re-initiation of a Review to Consider the Designation of the Republic of Azerbaijan as a Beneficiary Developing Country Under the GSP

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and solicitation of public comment.

SUMMARY: This notice announces the re-initiation of a review to consider designating the Republic of Azerbaijan as a beneficiary developing country (BDC) for purposes of the GSP program, and solicits public comment relating to the designation. Comments are due by Wednesday April 30, 2008, in accordance with the requirements for submissions, explained below.

ADDRESS: Submit comments by electronic mail (e-mail) to: *FR0711@USTR.EOP.GOV.* (**Note:** the digit before the number in the e-mail address is the number zero, not a letter.)

FOR FURTHER INFORMATION CONTACT: For assistance or if unable to submit comments by e-mail, contact the GSP Subcommittee, Office of the United States Trade Representative; USTR Annex, Room F–220; 1724 F Street, NW., Washington, DC 20508 (Tel. 202–395–6971, Facsimile: 202–395–9481).

SUPPLEMENTARY INFORMATION: The GSP Subcommittee of the Trade Policy Staff Committee (TPSC) has initiated a review in order to make a recommendation to the President as to whether the Republic of Azerbaijan meets the eligibility criteria of the GSP statute, as set out below. After considering the recommendation, the President is authorized to, and may, designate the country as a beneficiary developing country for purposes of the GSP.

Interested parties are invited to submit comments. Documents should be submitted in accordance with the below instructions, to be considered in this review.

Eligibility Criteria

The trade benefits of the GSP program are available to any country that the President designates as a GSP ''beneficiary developing country.'' In designating countries as GSP beneficiary developing countries, the President must consider the criteria in sections 502(b)(2) and 502(c) of the Trade Act of 1974, as amended (19 U.S.C. 2462(b)(2), 2462(c)) (''the Act''). Section 502(b)(2) provides that a country is ineligible for designation if:

1. Such country is a Communist country, unless—

(a) The products of such country receive nondiscriminatory treatment, (b) Such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and (c) Such country is not dominated or controlled by international communism.

2. Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

(a) To withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and (b) To cause serious disruption of the world economy.

3. Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

4. Such country—

(a) Has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, (b) Has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or (c) Has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) Prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to above, (ii) Good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or (iii) A dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

5. Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

6. Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism or the Secretary of State makes a determination with respect to such country under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. Appx. section 2405(j)(1)(A)) or such country has not taken steps to support the efforts of the United States to combat terrorism.

7. Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

8. Such country has not implemented its commitments to eliminate the worst forms of child labor.

Section 502(c) provides that, in determining whether to designate any country as a GSP beneficiary developing country, the President shall take into account:

1. An expression by such country of its desire to be so designated;

2. The level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

3. Whether or not other major developed countries are extending generalized preferential tariff treatment to such country;

4. The extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

5. The extent to which such country is providing adequate and effective protection of intellectual property rights;

6. The extent to which such country has taken action to—

(a) Reduce trade distorting investment practices and policies (including export performance requirements); and (b) Reduce or eliminate barriers to trade in services; and

7. Whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights. Note that the Trade Act of 2002 amended paragraph (D) of the definition of the term ''internationally recognized worker rights,'' which now includes: (A) The right of association; (B) the right to organize and bargain collectively; (C) a prohibition on the use of any form of forced or compulsory labor; (D) a minimum age for the employment of children and a prohibition on the worst forms of child labor as defined in paragraph (6) of section 507(4) of the Act; and (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

Requirements for Submissions

All submissions must conform to the GSP regulations set forth at 15 CFR Part 2007, except as modified below. Comments must be submitted, in English, to the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee (TPSC) as soon as possible, but not later than 5 p.m., April 30, 2008.

In order to facilitate prompt processing of submissions, USTR requires electronic e-mail submissions in response to this notice. Hand-delivered submissions will not be accepted. These submissions should be single-copy transmissions in English, with the total submission including attachments not to exceed 20 single-spaced standard letter-size pages in 12-point type and three megabytes as a digital file attached to an e-mail transmission. E-mail submissions should use the following subject line: ''Comments for the Republic of Azerbaijan Eligibility Review.'' Documents must be submitted in English in one of the following formats: WordPerfect (.WPD), Adobe (.PDF), MSWord (.DOC), or text (.TXT) files. Documents cannot be submitted as electronic image files or contain embedded images, e.g., ''.JPG'', ''.TIF'', ''.BMP'', or ''.GIF''. Supporting documentation submitted as spreadsheets are acceptable as Excel files, formatted for printing on 8½ x 11

inch paper. To the extent possible, any data attachments to the submission should be included in the same file as the submission itself, and not as separate files.

If the submission contains business confidential information, a non-confidential version of the submission must also be submitted that indicates where confidential information was redacted by inserting asterisks where material was deleted. In addition, the confidential submission must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of each page of the document. The non-confidential version must also be clearly marked at the top and bottom of each page (either ''PUBLIC VERSION'' or ''NON-CONFIDENTIAL'').

Documents that are submitted without any marking might not be accepted or will be considered public documents.

For any document containing business confidential information submitted as an electronic attached file to an e-mail transmission, the file name of the business confidential version should begin with the characters ''BC–'', and the file name of the public version should begin with the characters ''P–''. The ''P–'' or ''BC–'' should be followed by the name of the party (government, company, union, association, etc.) which is making the submission.

E-mail submissions should not include separate cover letters or messages in the message area of the e-mail; information that might appear in any cover letter should be included directly in the attached file containing the submission itself, including identifying information on the sender's name, organization name, address, telephone number and e-mail address. The e-mail address for these submissions is *FR0711@USTR.EOP.GOV*. (Note: The digit before the number in the e-mail address is the number zero, not a letter.) Documents not submitted in accordance with these instructions might not be considered in this review. If unable to provide submissions by e-mail, please contact the GSP Subcommittee to arrange for an alternative method of transmission.

Public versions of all documents relating to this review will be available for review approximately two weeks after the due date by appointment in the USTR public reading room, 1724 F Street, NW., Washington, DC. Appointments may be made from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, by calling (202) 395–6186.

Marideth J. Sandler,

Executive Director for the GSP Program, Chairman, GSP Subcommittee of the Trade Policy Staff Committee.

[FR Doc. E8–7702 Filed 4–10–08; 8:45 am]

BILLING CODE 3190–W8–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; New Computer Matching Program Between the Office of Personnel Management and Social Security Administration

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice—computer matching between the Office of Personnel Management and the Social Security Administration.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (*54 FR 25818* published June 19, 1989), and OMB Circular No. A–130, revised November 28, 2000, ''Management of Federal Information Resources,'' the Office of Personnel Management (OPM) is publishing notice of its new computer matching program with the Social Security Administration (SSA).

DATES: OPM will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will begin 30 days after the **Federal Register** notice has been published or 40 days after the date of OPM's submissions of the letters to Congress and OMB, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended an additional 12 months thereafter. Subsequent matches will run until one of the parties advises the other in writing of its intention to reevaluate, modify and/or terminate the agreement.

ADDRESSES: Send comments to Sean Hershey, Chief, Management Information Branch, Office of Personnel Management, Room 4316, 1900 E. Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: James Sparrow on (202) 606–1803.

SUPPLEMENTARY INFORMATION:

A. General

The Privacy Act (5 U.S.C. 552a), as amended, establishes the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. Among other things, it requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency for agencies participating in the matching programs;

(2) Obtain the approval of the match agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching;

(5) Verify match findings before reducing, suspending, termination or denying an individual's benefits or payments.

B. OPM Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of OPM's computer matching programs comply with the requirements of the Privacy Act, as amended.

Notice of Computer Matching Program, Office of Personnel Management (OPM) With the Social Security Administration (SSA)

A. Participating Agencies

OPM and SSA.

B. Purpose of the Matching Program

The purpose of this agreement is to establish the conditions under which SSA agrees to the disclosure of tax return information to OPM. The SSA records will be used in a matching program in which OPM will match SSA's tax return records with OPM's records on disability retirees under age 60, disabled adult child survivors, certain retirees in receipt of a

supplemental benefit under the Federal Employees Retirement System (FERS), and certain annuitants receiving a discontinued service retirement benefit under the Civil Service Retirement System (CSRS). By law, these annuitants and survivors are limited in the amount they can earn and still retain benefits paid to them. In the case of the discontinued service annuitants, retirement benefits cease upon re-employment in Federal service. OPM will use the SSA data to determine continued eligibility for benefits being paid.

C. Authority for Conducting the Matching Program

Chapters 83 and 84 of title 5 of the United States Code and 26 U.S.C. 6103 (l)(11).

D. Categories of Records and Individuals Covered by the Match

SSA will disclose the necessary tax return information from the Earnings Recording and Self-Employment Income System, SSA / OEEAS (60–0059). OPM will provide SSA with an electronic finder file from the OPM system of records published as OPM/Central-1 (Civil Service Retirement and Insurance Records) on October 8, 1999 (64 FR 54930), as amended on May 3, 2000 (65 FR 25775). The systems of records involved have routine uses permitting the disclosures needed to conduct this match.

E. Privacy Safeguards and Security

The Privacy Act (5 U.S.C. 552a(o)(1)(G)), requires that each matching agreement specify procedures for ensuring the administrative, technical and physical security of the records matched and the results of such programs. All Federal agencies are subject to: the Federal Information Security Management Act of 2002 (FISMA), 44 U.S.C. 3541 *et seq.;* related Office of Management and Budget circulars and memorandum (*e.g.*, OMB Circular A–130 and OMB M–06–16); National Institute of Science and Technology (NIST) directives; and the Federal Acquisition Regulations (FAR)). These laws, circulars, memoranda directives and regulations include requirements for safeguarding Federal information systems and personally identifiable information used in Federal agency business processes, as well as related reporting requirements. OPM and SSA recognize that all laws, circulars, memoranda, directives and regulations relating to the subject of this agreement and published subsequent to the effective date of this agreement must also be implemented if mandated.

FISMA requirements apply to all Federal contractors and organizations or sources that possess or use Federal information, or that operate, use, or have access to Federal information systems on behalf of an agency. OPM will be responsible for oversight and compliance of their contractors and agents. Both OPM and SSA reserve the right to conduct onsite inspection to monitor compliance with FISMA regulations.

F. Inclusive Dates of the Match

The matching program shall become effective upon the signing of the agreement by both parties to the agreement and approval of the agreement by the Data Integrity Boards of the respective agencies, but no sooner than 40 days after notice of this matching program is sent to Congress and the Office of Management and Budget or 30 days after publication of this notice in the **Federal Register**, whichever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

U.S. Office of Personnel Management.

Linda M. Springer,

Director.

[FR Doc. E8–7752 Filed 4–10–08; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Rule 609 and Form SIP; OMB Control No. 3235–0043; SEC File No. 270–23.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et. seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

• Rule 609 (17 CFR 242.609) (formerly Rule 11Ab2–1) and Form SIP (17 CFR 249.1001) Registration of securities information processors: form of application and amendments.

On September 23, 1975, the Commission adopted Rule 11Ab2–1 and Form SIP under the Securities Exchange Act of 1934 (''Act'') (15 U.S.C. 78a *et. seq.*) to establish the procedures by which Securities Information Processor (''SIP'') files and amends their SIP registration statements.[1] Under Regulation NMS Rule 11Ab2–1 was redesignated as Rule 609.[2] The information filed with the Commission pursuant to Rule 609 and Form SIP is designed to provide the Commission with the information necessary to make the required findings under the Act before granting the SIP's application for registration. In addition, the requirement that a SIP file an amendment to correct any inaccurate information is designed to assure that the Commission has current, accurate information with respect to the SIP. This information is also made available to members of the public.

Only exclusive SIPs are required to register with the Commission. An exclusive SIP is a SIP that engages on an exclusive basis on behalf of any national securities exchange or registered securities association, or any national securities exchange or registered securities association which engages on an exclusive basis on its own behalf, in collecting, processing, or preparing for distribution or publication, any information with respect to (i) transactions or quotations on or effective or made by means of any facility of such exchange or (ii) quotations distributed or published by means of any electronic quotation system operated by such association. The Federal securities laws require that before the Commission may approve the registration of an exclusive SIP, it must make certain mandatory findings. It takes a SIP applicant approximately 400 hours to prepare documents which include sufficient information to enable the Commission to make those findings. Currently, there are only two exclusive SIPs registered with the Commission; The Securities Information Automation Corporation (''SIAC'') and The Nasdaq Stock Market, Inc. (''Nasdaq''). SIAC and Nasdaq are required to keep the information on file with the Commission current, which entails filing a form SIP annually to update information. Accordingly, the annual reporting and recordkeeping burden for Rule 609 and Form SIP is 400 hours. This annual reporting and

[1] *See* Securities Exchange Act Release No. 11673 (September 23, 1975), 40 FR 45422 (October 2, 1975).

[2] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

recordkeeping burden does not include the burden hours or cost of amending a Form SIP because the Commission has already overstated the compliance burdens by assuming that the Commission will receive one initial registration pursuant to Rule 609 on Form SIP a year.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to: R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 60 days of this notice.

April 3, 2008.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7700 Filed 4–10–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57625; File No. SR–Amex–2008–28]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rebates to Specialists for Options Transaction Fees Resulting From Linkage P/A Orders

April 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 March 20, 2008, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amex proposes to rebate options transaction fees incurred by specialists in connection with a principal acting as agent order (''P/A Order'')[5] executed via the Intermarket Option Linkage (''Options Linkage'' or ''Linkage''). The text of the proposed rule change is available at Amex, the Commission's Public Reference Room, and *http://www.amex.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

The Exchange proposes to rebate options transaction fees incurred by specialists as a result of the obligation to send customer orders through the Linkage to the away options exchange disseminating the national best bid or offer (''NBBO'').[6] A P/A Order is used by specialists for this purpose. Currently, a specialist will be charged two separate transaction fees upon completion of a transaction involving a P/A Order. First, the away options exchange will charge the P/A Order a transaction fee upon execution of the order. This fee varies by the particular options exchange. Second, in order to transfer the trade resulting from the P/A Order at the away options exchange into the customer account, the Amex specialist is then required to execute a trade on the Exchange. At this point, the Exchange will charge the applicable options transaction fees set forth in the Amex Options Fee Schedule to the specialist. This proposal seeks to rebate these exchange transaction fees incurred by specialists as a result of the obligations imposed by the Options Linkage.

The current Amex Options Fee Schedule imposes a charge of $0.20 per contract side on specialist trades in equity options and $0.31 per contract side on specialist trades for index options. In connection with transferring the P/A Order execution into the customer account, the Amex specialist will incur a charge of $0.20 or $0.31 per contract side, depending on whether the option is an equity option or index option. Under this proposal, the Exchange will rebate the transaction charges incurred by the specialist to transfer the P/A Order execution into the customer account.[7] In addition, on a monthly basis, the Exchange will calculate the amount of the transaction fees incurred by the specialist in connection with his or her obligation to send P/A Orders to away options exchanges. This amount will also be

[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] A P/A Order as defined in Amex Rule 940(b)(10)(i) means an order for the principal account of a specialist (or equivalent entity on another Participant exchange that is authorized to represent Public Customer Orders), reflecting the terms of a related unexecuted Public Customer Order for which the specialist is acting as agent. *See* Section 2(16)(a) of the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage.

[6] The proposed fee rebate of transaction fees incurred by specialists as a result of the obligation to send P/A Orders does not include the rebate of OCC fees and clearing firm fees associated with P/A Orders. *See* e-mail from Jeff Burns, Vice President & Associate General Counsel, Amex, to Brian O'Neill, Attorney, and Molly Kim, Special Counsel, Division of Trading and Markets, Commission, on April 1, 2008 (''April 1 E-mail'').

[7] The proposal to rebate transaction fees incurred by specialists as a result of the obligations imposed by the Options Linkage would also include any specialist subject to the BD Auto-Ex Fee. This could occur if a specialist submitted an order electronically through order-entry lines, such as CMS and/or FIX, for automatic execution, for the purpose of transferring a trade resulting from the P/A Order at the away options exchange into the customer account. The Exchange would then charge to the specialist, the BD Auto-Ex Fee together with the other applicable options transaction fees set forth in the Options Fee Schedule. The proposal set forth in this proposal seeks to rebate these transaction fees incurred by a specialist. *See* e-mail from the Jeff Burns, Vice President & Associate General Counsel, Amex, to Brian O'Neill, Attorney, and Molly Kim, Special Counsel, Division of Trading and Markets, Commission, on April 3, 2008.

credited to the specialist account for that month's charges.

In order for a specialist to be subject to the fee rebates under this proposal, the Exchange will require that specialists use the ''Auto Route'' functionality in ANTE for orders up to 1,000 contracts.[8] Auto Route automatically sends a P/A Order through the Linkage to execute against the NBBO at another options exchange.[9]

The Exchange believes that this proposal to rebate specialist transaction charges associated with P/A Orders is necessary in order for the Exchange to remain competitive with other options exchanges that currently provide transaction fee rebates/credits for executing orders through the Linkage. The Exchange states that both the Chicago Board Options Exchange, Incorporated and the Philadelphia Stock Exchange, Inc. have fee rebate or credit programs for fees incurred executing orders through the Linkage.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(4),[11] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange believes that the proposal provides for an equitable allocation of reasonable fees among members consistent with Section 6(b)(4),[12] by rebating/crediting transaction fees incurred by a specialist as a result of the obligation imposed by the sending of P/A Orders through the Linkage.

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.

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 proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) [13] of the Act and Rule 19b–4(f)(2) [14] thereunder, because it establishes or changes a due, fee, or other charge applicable only to a member 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2008–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2008–28. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro/shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also 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 No. SR–Amex–2008–28 and should be submitted on or before May 2, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7656 Filed 4–10–08; 8:45 am]

BILLING CODE 8011–01–P

[8] As long as a specialist satisfies this condition, such specialist would be eligible for the fee rebate, regardless of the size of the order received. For example, if the specialist satisfies the rebate condition and sets the Auto Route functionality in ANTE for orders up to 1,000 contracts, such specialist would be eligible for the fee rebate even though the order received is greater than 1,000 contracts and thereby not subject to auto routing but to manual handling by the specialist. *See* April 1 E-mail, *supra* note 6.

[9] Auto Route automatically sends a P/A Order through the Linkage to execute against the NBBO at another options exchange if such order is not executable against the Amex best bid or offer. *See* April 1 E-mail, *supra* note 6.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] *Id.*

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57630; File No. SR–BSE–2008–22]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Amending Its Make or Take Linkage Transaction Fees

April 7, 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 April 3, 2008, the Boston Stock Exchange (''BSE'' 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. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons and is approving the proposed rule change on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend, retroactively effective to March 28, 2008, the Liquidity Make or Take Pricing Structure (''Make or Take Pricing'')—Intermarket Linkage Transaction fees (''Linkage Fees'') portion of the Fee Schedule of the Boston Options Exchange (''BOX'').[3] The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.bostonoptions.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend, retroactively effective to March 28, 2008, Section 7(c) of the BOX Fee Schedule in order to revise the Make or Take Pricing Linkage Fees portion of the BOX Fee Schedule, so as to conform it with fee changes the Exchange recently proposed for Make or Take Pricing within non-Penny Pilot Program classes.[4]

Executions on BOX resulting from orders sent via the Intermarket Option Linkage (''Linkage Orders'') are subject to the same billing treatment as other broker-dealer orders. On September 6, 2007, the Exchange introduced the Make or Take Pricing for all classes contained in the Penny Pilot Program.[5] Since Linkage Orders that are sent to and executed on BOX take liquidity, such orders are assessed a $0.45 per contract fee for executed transactions in issues participating in the Penny Pilot Program.[6]

Furthermore, on November 30, 2007, the Exchange filed a rule proposal with the Commission, which added the twenty five (25) most actively traded options classes on BOX that at that time were not included within the Penny Pilot Program (''M or T Non-Penny Pilot Classes'') to the Make or Take Pricing.[7] Recently, nineteen (19) of these M or T Non-Penny Pilot Classes were included in an expansion of the Penny Pilot Program.[8] As a result, on March 28, 2008, the Exchange filed with the Commission a proposal that eliminates the Make or Take Pricing for M or T Non-Penny Pilot Classes.[9]

In conjunction with the elimination of this fee, the Exchange is now proposing to also eliminate the $0.50 per contract Make or Take Pricing for Linkage Orders in these M or T Non-Penny Pilot Classes. Consequently, the Linkage Fees associated with the Make or Take Pricing will only apply to Linkage Orders in any class of options that is included in the Penny Pilot Program. The standard Linkage Fees shall apply to those options classes that are not part of the Penny Pilot Program.[10] The standard Linkage Fee is $0.20 per contract. Because the Make or Take Pricing for M or T Non-Penny Pilot Classes was eliminated on March 28, 2008, and the Exchange is seeking to reduce the fee charged, the Exchange requests that the effective date of the proposed rule change be retroactive to March 28, 2008.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[11] in general, and Section 6(b)(4) of the Act,[12] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities for the purpose of executing Linkage Orders that are routed to the Exchange from other market centers.

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 not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BSE–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–BSE–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

[3] Capitalized terms not otherwise defined herein shall have the meanings prescribed under the BOX Rules.

[4] *See* Securities Exchange Act Release No. 57618 (April 4, 2008) (SR–BSE–2008–21) (eliminating the Make or Take Pricing Structure for non-Penny Pilot Program classes).

[5] *See* Securities Exchange Act Release No. 56371 (September 7, 2007), 72 FR 52401 (September 13, 2007) (SR–BSE–2007–43). The Exchange may trade options contracts in one-cent increments in certain approved issues as part of the Penny Pilot Program through March 27, 2009. *See* Securities Exchange Act Release No. 56566 (September 27, 2007), 72 FR 56400 (October 3, 2007) (SR–BSE–2007–40).

[6] *See* Securities Exchange Act Release No. 56371 (September 7, 2007), 72 FR 52401, 52402 (September 13, 2007) (SR–BSE–2007–43), which provides that ''Linkage Orders that are not executed upon receipt are rejected back to the sender and are never posted in the BOX Book. Therefore, a Linkage Order would never be eligible to receive a credit of the Transaction Fee.''

[7] *See* Securities Exchange Act Release No. 56948 (December 12, 2007), 72 FR 72426 (December 20, 2007) (SR–BSE–2007–52).

[8] *See* Securities Exchange Act Release No. 57566 (March 26, 2008), 73 FR 18013 (April 2, 2008) (SR–BSE–2008–20). This most recent expansion added twenty eight (28) of the most actively traded multiply listed options classes, according to Clearing Corporation volume, to the Penny Pilot Program.

[9] *See* note 4 *supra.*

[10] The BOX Fee Schedule can be found on the BOX Web site at *www.bostonoptions.com.*

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

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–BSE–2008–22 and should be submitted on or before May 2, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[13] and, in particular, with the requirements of Section 6(b) of the Act.[14] In particular, the Commission finds that the Exchange's proposal is consistent with Section 6(b)(4) of the Act,[15] which requires that the rules of the Exchange provide for the equitable allocation or reasonable dues, fees, and other charges among its members and other persons using its facilities. The Commission notes that the proposal conforms Linkage Fees with those fees charged on other broker-dealer executions.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[16] for approving the proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof in the **Federal Register**. The Commission notes that the Make or Take Pricing for M or T Non-Penny Pilot Classes was eliminated on March 28, 2008.[17] Further, because the Exchange is proposing to reduce the fee charged from $0.50 per contract to $0.20 per contract for those M or T Non-Penny Pilot Classes not included in the Penny Pilot Program expansion, granting accelerated approval on a retroactive basis would allow the Exchange to implement a lower fee for market participants executing Linkage Orders at the same time as the Exchange's related fee changes, which should benefit investors and reduce confusion.[18]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[19] that the proposed rule change (SR–BSE–2008–22) is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7781 Filed 4–10–08; 8:45 am]

BILLING CODE 8011–01–P

[13] In approving this rule, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78s(b)(2).

[17] *See* note 4 *supra.*

[18] *See* note 8 *supra* and accompanying text.

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12)

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57622; File No. SR–FINRA–2008–012]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Technical Amendments to Incorporated NYSE Rule Interpretation 344/02

April 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 April 4, 2008, Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change as described in Items I and II below, which items have been prepared substantially by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend Incorporated NYSE Rule Interpretation 344/02 (Research Analysts and Supervisory Analysts) (the ''Interpretation'') to make a non-substantive, technical change to the Interpretation text.[4]

Below is the text of the proposed rule change. Proposed deletions are in [brackets].

* * * * *

Rule 344 Research Analysts and Supervisory Analysts

/01 No Change.

/02 *Foreign Research Analysts*

Exemption

No change.

Supervisory Review

No Change.

Disclosure

In publishing or otherwise distributing globally branded research reports partially or entirely prepared by a foreign research analyst, a member organization must prominently disclose:

(1) each affiliate contributing to the research report;

(2) the names of the foreign research analysts employed by each contributing affiliate;

(3) that such research analysts are not registered/qualified as research analysts with the NYSE and/or NASD; and

(4) that such research analysts may not be associated persons of the member organization and therefore may not be subject to the NYSE Rule 472 restrictions on communications with a subject company, public appearances and trading securities [company, public appearances and trading securities] held by a research analyst account.

The disclosures required by this Rule must be presented on the front page of the research report or the front page must refer to the page on which the disclosures can be found. In electronic research reports, a member may hyperlink to the disclosures. References and disclosures must be clear, comprehensive and prominent.

[4] As part of the consolidation of NASD and NYSE Member Regulation, FINRA incorporated into its rulebook certain NYSE rules related to member firm conduct (''Incorporated NYSE Rules''). As a result, the current FINRA rulebook consists of two sets of rules: (1) NASD Rules and (2) the Incorporated NYSE Rules. While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to members of both FINRA and the NYSE, referred to as Dual Members.

Record Keeping

No change.

Application of the Federal Securities Laws, Rules and Regulations and Self-Regulatory Organization Rules

No change.

Effect of Exemption on Associated Person Status

No change.

Globally-Branded Research Report

No change.

Mixed-Team Research Report

No change.

Affiliate

No change.

/03–/04 No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA is proposing a non-substantive, technical rule change to Incorporated NYSE Rule Interpretation 344/02 (Research Analysts and Supervisory Analysts) to delete superfluous language from the Interpretation that should not be part of the text. The Interpretation was approved by the Commission on February 6, 2008,[5] and is scheduled to become effective upon publication of a Regulatory Notice announcing the approval. The superfluous language was inadvertently included in the rule text of the original proposed rule change.[6]

FINRA has filed the proposed rule change for immediate effectiveness. The effective date and the implementation date will be the date of filing, April 4, 2008.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A of the Act, including Section 15A(b)(6) of the Act,[7] in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will clarify the Interpretation by removing unnecessary language from the text.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of the filing.[10] However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has requested that the Commission waive the 30-day pre-operative delay and designate the proposed rule change to become operative upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the amendment merely removes duplicative language from the Interpretation that was inadvertently included in the February 2008 order. This duplicative language could only serve to confuse parties in attempting to comply with the Interpretation. Thus, the Commission designates the proposal to become operative upon filing.[12]

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 the 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–FINRA–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–FINRA–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

[5] *See* Securities Exchange Act Release No. 57278 (February 6, 2008); 73 FR 8086 (February 12, 2008); Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment No. 1 to Amend an Exemption to NASD Rule 1050 and NYSE Rule Interpretation 344/02 for Certain Research Analysts Employed By a Member's Foreign Affiliate Who Contribute to the Preparation of a Member's Research Report; File No. SR–FINRA–2007–010.

[6] *See id.*

[7] 15 U.S.C. 78o–3(b)(6).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii). Pursuant to Rule 19b–4(f)(6)(iii) under the Act, FINRA is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has requested that the Commission waive the five-day pre-filing notice requirement. The Commission has determined to waive this requirement to allow FINRA to file the proposed technical amendment without delay.

[11] *Id.*

[12] For purposes only of waiving the 30-day operative delay, the Commission has considered the impact of the proposed rule on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–FINRA–2008–012 and should be submitted on or before May 2, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7655 Filed 4–10–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57609; File No. SR–NSCC–2008–01]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule To Amend the Rules With Regard to the Formula Used Within the Stock Borrow Program

April 3, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 18, 2008, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by NSCC. NSCC filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act[2] and Rule 19b–4(f)(4)[3] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the rule change is to modify Addendum C of NSCC's rules with respect to the formula used in NSCC's stock borrow program to determine the order of priority among members from whom NSCC will borrow securities made available by those members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[4]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In the course of daily operations, NSCC's Continuous Net Settlement System (''CNS'') may need more shares of a security than shares made available by member deliveries. In order to improve the efficiency of the clearing system in dealing with these situations, NSCC implemented automated stock borrow procedures to satisfy the need for shares that are not filled through normal deliveries from members.

NSCC members that wish to participate in the stock borrow program notify NSCC each day of the securities those members have on deposit at The Depository Trust Company (''DTC'') that they intend to make available to NSCC through the stock borrow program. The stock borrow program has two separate cycles: the daytime cycle and the nighttime cycle.[5] Members choose whether to participate in the stock borrow program and whether to participate in one or both cycles.

After NSCC processes regular deliveries, shares needed to satisfy CNS deliveries typically are borrowed from members who have made their securities available through the stock borrow program with the lending member's DTC position being debited for the number of shares loaned in the stock borrow program. Borrowed shares are recorded as a long position in the lending member's CNS subaccount until shares are delivered back to the lender.

Prior to this rule change, NSCC had used a formula to determine the order of priority among members from which NSCC would borrow shares. First, NSCC assigned each member a random allocation number for each security the member made available for borrowing. Then a factor was developed for each member by dividing the percentage of the member's average loans as they related to total NSCC borrowings by the percentage of the member's average fees paid for trade comparison, trade recording, and clearance as they related to the total of these fees for all members. Each member's random allocation number was multiplied by the factor to produce an adjusted random number per security for each member. Each potential borrow was then sequenced using the adjusted random number with the lowest adjusted random number having the first priority for borrowing.

NSCC is proposing to simplify the process by eliminating the formula and using a random allocation algorithm to determine the order of priority among members from which NSCC will borrow shares.[6] Using a random allocation algorithm to determine the order of priority in which NSCC will borrow securities made available by members within the stock borrow program would make processing more consistent with other current processing routines already utilized by NSCC.

NSCC proposes to implement the changes set forth in this filing on March 28, 2008. Members will be advised of the implementation date through issuance of NSCC Important Notices.

The proposed rule change is consistent with Section 17A of the Act,[7] as amended, because it removes

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(iii).

[3] 17 CFR 240.19b–4(f)(4).

[4] The Commission has modified the text of the summaries prepared by NSCC.

[5] The daytime and nighttime cycles are separate processes. Securities made available to be borrowed during the nighttime processing cycle are not borrowed during the daytime processing cycle and vice versa.

[6] This random allocation algorithm is already used by NSCC to determine other priorities. NSCC uses random allocation algorithms routinely. For example, CNS uses a random allocation methodology whereby, after securities are received by NSCC from members making deliveries to CNS, they are then allocated to other members that are expecting receipt of those securities.

[7] 15 U.S.C. 78q–1.

impediments to and perfects the mechanism of a national system for prompt and accurate clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(4) [9] thereunder because the proposed rule change effects a change in an existing service of a registered clearing agency that: (i) Does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NSCC–2008–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NSCC–2008–01. 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 Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 am and 3 pm. Copies of such filings also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at *http://www.dtcc.com/downloads/legal/rule_filings/2008/nscc/2008–01.pdf*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2008–01 and should be submitted on or before May 2, 2008.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7696 Filed 4–10–08; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(4).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57627; File No. SR–NYSE–2008–19]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 To Amend NYSE Rule 46 To Permit the Appointment of Qualified Exchange Employees To Act as Floor Governors

April 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 March 14, 2008, the New York Stock Exchange, LLC (''NYSE'' 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 prepared by NYSE. On April 4, 2008 the Exchange filed Amendment No. 1 to the proposed rule change. NYSE has designated this proposal as concerned solely with the administration of a self-regulatory organization, pursuant to Section 19(b)(3)(A)(iii) of the Act and Rule 19b–4(f)(3) thereunder,[3] which renders the proposed rule change effective upon filing. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 46 to permit the appointment of qualified Exchange employees to act as Floor Governors. 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. The Exchange has prepared summaries, set forth in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(3).

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*

NYSE Rule 46 currently provides a process for the Exchange to appoint NYSE members as Floor Officials. NYSE Rule 2(a) states that the term ''member,'' when referring to a natural person, means a natural person associated with a member organization who has been approved by the Exchange and designated by such member organization to effect transactions on the Floor of the Exchange or any facility thereof. Floor Officials are delegated certain authority from the Board of Directors of the Exchange to supervise and regulate active openings and unusual situations that arise in connection with the making of bids, offers or transactions on the trading Floor, and to review and approve certain trading actions, such as trades to be effected at wide variations in price and delayed openings and trading halts.[4]

Floor Officials have traditionally been drawn from the ranks of experienced NYSE Floor members and serve in a volunteer capacity in addition to their regular obligations as either brokers or specialists. Within the broad category of ''Floor Official,'' there are several ranks reflecting the experience of the member serving, including (in ascending order of seniority) Floor Official, Senior Floor Official, Floor Governor, and Executive Floor Governor. Under NYSE Rule 46, more senior-level Floor Officials may take any action that a lower-level Floor Official is authorized to take.

Floor Officials at all ranks are appointed by the NYSE's Chairman and Board of Directors, in consultation with the Executive Floor Governors and NYSE Regulation Board, which advises on the fitness of the individuals designated. In connection with the NYSE Regulation Board's advisory function, NYSE Regulation staff gives a mandatory education program to the prospective officials, which all candidates for Floor Official (including Floor Governors) must complete. NYSE Regulation also administers a qualifying examination to newly-named Floor Officials, who must pass the exam prior to being recommended by the NYSE Regulation Board for appointment.

As the NYSE's trading Floor has downsized from five trading rooms to two, a number of highly-experienced members have left the Floor as a result of retirement, layoffs and restructurings within their member organizations. Because of these departures, the available pool of experienced members who can serve as senior-level Floor Officials (particularly Floor Governors) has shrunk commensurately.

During this same time, the Exchange has hired several former members who, while they were active on the Floor, served as senior-level Floor Officials.[5] The Exchange believes that these individuals have the necessary business and rule knowledge that would enable them to act as Floor Governors if the need arose, but are restricted by the provision in NYSE Rule 46 that states that Floor Governors must be ''members'' of the Exchange. In order to broaden the pool of experienced individuals who can participate in and supervise unusual trading situations on the Floor, the Exchange is proposing an amendment to NYSE Rule 46 that would permit the Exchange to designate qualified Exchange employees, who would have the same authority as Floor Governors, in addition to appointing active members as Floor Governors. To avoid any conflicts of interest between business interests and regulatory interests, the proposed amendment also provides that the Exchange may not appoint employees of NYSE Regulation as Floor Governors.

The proposed amendment would preserve the Exchange's flexibility to appoint both qualified members and qualified staff to act as Floor Governors. In addition, and as importantly, the amendment would not change either the selection or the qualification processes: qualified Exchange employees (like qualified members) would need to be appointed by the Exchange's chairman in consultation with the Executive Floor Governors and NYSE Regulation Board of Directors and approved by the NYSE Board of Directors; and they would need to complete the mandatory education program and, if necessary, the qualifications exam.[6] By retaining these processes, the Exchange intends to limit the appointment of Exchange employees to only those employees who meet the standards that the Exchange currently expects of member Floor Governors.

Because the proposed amendment adds a new category of Floor Official (qualified Exchange employee), the Exchange is proposing to add new supplementary material, Rule 46.20, to clarify that qualified Exchange employees are authorized to take any action that a Floor Governor may take. Because all Floor Governors are also empowered to take any action that a Floor Official may take, the rule further clarifies that qualified Exchange employees may also take any action that a Floor Official may take.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act,[7] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The 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

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 is concerned solely with the administration of the Exchange and has, therefore, become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(3)[9] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for

[4] *See* NYSE Rules 37, 47, 48, 60, 64, 75, 79A, 85, 90, 91, 93, 100, 103, 103A, 103B, 104, 107A, 110, 111, 112, 115A, 122, 123A, 123C, 123D, 127, 128B, 284, 325, 476A, 903 and 906.

[5] For example, one such individual served as an Executive Floor Governor, while two others served as Floor Governors.

[6] The Exchange notes that under NYSE Regulation policy, former Floor Governors employed by the Exchange and appointed as qualified Exchange employees under Rule 46 would not need to retake the qualifying examination. This is consistent with the treatment of members being promoted to Floor Governor from Floor Official positions; such members are deemed to be qualified for the position after completing the mandatory education program, and are exempt from retaking the examination.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(3).

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, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2008–19 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–2008–19. 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–2008–19 and should be submitted on or before May 2, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7699 Filed 4–10–08; 8:45 am]

BILLING CODE 8011–01–P

[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 April 4, 2008, the date on which NYSE filed Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57624; File No. SR–NYSEArca–2008–38]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto To Amend the Schedule of Fees and Charges for Exchange Services That Apply To Orders Submitted by ETP Holders

April 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 March 31, 2008, NYSE Arca, Inc. (''Exchange''), through its wholly-owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared substantially by the Exchange. On April 2, 2008, the Exchange filed Amendment No. 1. The Exchange has designated this proposal as one establishing or changing a member due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b-4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the section of its Schedule of Fees and Charges for Exchange Services (''Fee Schedule'') that applies to orders submitted by ETP Holders.[5] While changes to the Fee Schedule pursuant to this proposal will be effective upon filing, the changes will become operative on April 1, 2008. The text of the proposed rule change is available on the Exchange's Web site at *http://www.nyse.com*, the Exchange's Office of the Corporate Secretary, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. 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

As part of its continuing efforts to enhance participation on the Exchange, NYSE Arca Equities proposes to amend the relevant sections of its Fee Schedule that apply to rebates provided to ETP Holders that submit orders which provide liquidity on NYSE Arca Equities for equity securities listed on the NASDAQ Stock Market LLC (''Nasdaq''), commonly referred to as Tape C securities, or equity securities listed on the New York Stock Exchange LLC (''NYSE''), commonly referred to as Tape A securities. Primarily, these changes will increase the rebate (or credit) earned by ETP Holders for providing significant liquidity in either Tape A or Tape C securities. Specifically, the Exchange proposes amending its existing volume tier structure and creating new volume-based tiers in order to offer increased rebates for orders that provide liquidity and decreased fees for orders that take liquidity, if certain volume thresholds are met.

Tape C

Credits

Currently, the credit for round lot orders of Tape C securities that provide liquidity is $0.002 per share, unless certain volume thresholds are met, in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b-4(f)(2).

[5] *See* NYSE Arca Equities Rule 1.1(n).

which case the rebate increases to $.0024 per share. With this filing, the Exchange proposes to increase the present, tier 1, volume threshold rebate from $.0024 per share to $.0025 where an ETP Holder (i) transacts an average daily share volume per month greater than 30 million shares (including transactions that take liquidity, provide liquidity, or route to away market centers) and also (ii) provides liquidity an average daily share volume per month greater than 15 million shares. The Exchange also proposes to offer, for Tape C securities, a $0.0026 per share credit if certain additional, tier 2, volume thresholds are met. Specifically, if an ETP Holder (i) transacts an average daily share volume per month greater than 60 million shares (including transactions that take liquidity, provide liquidity, or route to away market centers) and also (ii) provides liquidity an average daily share volume per month greater than 30 million, then the ETP Holder will earn a credit of $.0026 per share. The $.0026 per share credit will apply for an ETP Holder's orders that provide liquidity up to 75 million average daily shares. All volume in excess of 75 million average daily shares per month will earn a per share credit of $.0025.

Fees

Currently, the per share charge for inbound orders executed against orders residing in the Book is $.0025. The Exchange hereby proposes increasing this fee to $.0026.

Also, where ETP Holders satisfy the new, tier 2, volume thresholds, the Exchange proposes to offer a reduced per share charge of $.00245 for inbound orders in Tape C securities executed against orders residing in the Book.

Finally, where ETP Holders meet both the revised tier 1 volume thresholds and the new tier 2 volume thresholds, the Exchange will offer a reduced per share charge of $.0026 for orders in Tape C securities routed away and executed by another market center or participant compared to the standard $.0035 per share.

Tape A

Credits

Currently, ETP Holders receive a $.0025 credit for round lot orders of Tape A securities that provide liquidity to the Book for which they are registered as the ETP Holder. The Exchange hereby proposes to implement a new Tape A rebate tier by offering an increased per share credit of $.0028 when certain volume thresholds are met. Specifically, if an ETP Holder provides liquidity an average daily share volume per month greater than 30 million shares, then the ETP Holder will earn a credit of $.0028 per share for its orders that provide liquidity. This $.0028 per share credit will apply for an ETP Holder's orders that provide liquidity up to 100 million average daily shares. All volume in excess of 100 million average daily shares per month will earn the standard per share credit of $.0025.

In addition, the Exchange proposes to charge a routing fee in connection with Primary Sweep Orders (''PSOs'') that are routed to NYSE. Currently, PSOs for NYSE-listed securities are exempt from the $.001 per share routing fee charged for orders in NYSE-listed securities routed to the NYSE. The Exchange now proposes to charge ETP Holders $.0006 per share for PSOs in NYSE-listed securities for such orders that are routed outside the Book to the NYSE. The Exchange proposes this nominal fee as a reasonable means to balance its attempt to offer an attractive fee structure to its Users [6] while ensuring that this order type is not open to abuse by Users attempting to gain free access to certain away market centers, such as the NYSE.

The Exchange will also renumber certain footnotes contained within the Fee Schedule.

While changes to the Fee Schedule pursuant to this proposal will be effective upon filing, the changes will become operative on April 1, 2008.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act,[7] in general, and furthers the objectives of section 6(b)(4),[8] in particular, in that it is intended 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 fees and credits are reasonable. The proposed rates are part of the Exchange's effort to attract and enhance participation on the Exchange, by offering increased credits and decreased fees where certain volume thresholds are satisfied. The Exchange also believes that the proposed changes to the Fee Schedule are equitable in that they apply uniformly to our Users. Finally, the Exchange believes that the proposed routing fee for PSOs is also both reasonable and equitable, in that it is a reasonable means to balance the Exchange's attempt to offer an attractive fee structure to its Users while ensuring that this order type is not open to abuse by Users attempting to gain free access to certain away market centers, such as the NYSE.

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

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective upon filing pursuant to section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(2) [10] thereunder 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2008–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2008–38. This

[6] *See* NYSE Arca Equities Rule 1.1(yy).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSEArca–2008–38 and should be submitted on or before May 2, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7697 Filed 4–10–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57626; File No. SR–NYSEArca–2008–28]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Trade Pursuant to Unlisted Trading Privileges Shares of the Bear Stearns Current Yield Fund

April 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 March 13, 2008, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange''), through its wholly owned subsidiary NYSE Arca Equities, Inc., 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 the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to trade pursuant to unlisted trading privileges (''UTP'') shares of the Bear Stearns Current Yield Fund, an investment portfolio of the Bear Stearns Active ETF Trust. The text of the proposed rule change is available at the Exchange's principal office, the Commission's Public Reference Room, and *http://www.nyse.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*

The Exchange proposes to trade pursuant to UTP shares (''Shares'') of the Bear Stearns Active ETF Trust (the ''Trust'') under NYSE Arca Equities Rule 8.600.[3] The Trust consists of one investment portfolio, the Bear Stearns Current Yield Fund (''Fund''), and is an actively managed open-end investment company.

Recently, the American Stock Exchange, LLC (''Amex'') adopted rules relating to listing and trading of securities issued by actively managed open-end investment companies (Managed Fund Shares), and to list Shares of the Trust pursuant to those new rules (''Amex Proposal'').[4]

a. Description of the Fund and the Trust

The Trust is organized as a Delaware statutory trust and is an open-end registered investment company under the Investment Company Act of 1940 (''1940 Act'').[5] The Fund, an exchange-traded fund, is the sole investment portfolio of the Trust.

The investment objective of the Fund is to seek as high a level of current income as is consistent with the preservation of capital and liquidity. The Fund will be actively managed by its portfolio manager, who will have discretion to choose securities for the Fund's portfolio consistent with the Fund's investment objective. The Fund's portfolio manager seeks to attain the Fund's objective by investing primarily in short-term debt obligations, including U.S. government securities, bank obligations, corporate debt obligations, mortgage-backed and asset-backed securities, municipal obligations, foreign bank obligations (U.S. dollar denominated), foreign corporate debt obligations (U.S. dollar denominated), repurchase agreements, and reverse repurchase agreements. The Fund is not a ''money market'' fund, nor is it subject to certain rules and regulations under the 1940 Act governing money market funds.

The Registration Statement for the Trust, including the prospectus and Statement of Additional Information (''SAI''), will provide a detailed description of the Fund including, but not limited to, structure, creation/redemption process, investment objectives and policies, characteristics, tax status, and distributions.[6] Investors are directed to the Fund's prospectus and SAI for a complete explanation of the Fund.

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Recently, the Commission approved NYSE Arca Equities Rule 8.600, which permits the listing and trading, or trading pursuant to UTP, of Managed Fund Shares. *See* Securities Exchange Act Release No. 57619 (April 4, 2008) (SR–NYSEArca–2008–25). Managed Fund Shares will be structured very similarly to Investment Company Units and Portfolio Depositary Receipts based on a stock index and listed or traded pursuant to UTP under NYSE Arca Equities Rules 5.2(j)(3) and 8.100, respectively. However, Managed Fund Shares will be managed like traditional actively-managed open-end investment companies and will have specified investment goals and objectives. Unlike exchange-traded funds based on a stock index, those goals and objectives will not involve seeking to replicate, or provide investment results that correspond generally to, the price and yield or total return performance of a specified index.

[4] *See* Securities Exchange Act Release No. 57297 (February 8, 2008), 73 FR 8723 (February 14, 2008) (SR–Amex–2008–02) (notice of the proposed rule change); Securities Exchange Act Release No. 57514 (March 17, 2008), 73 FR 15230 (March 21, 2008) (SR–Amex–2008–02) (order approving the proposed rule change).

[5] 15 U.S.C. 80a.

[6] *See* Securities Act Registration No. 333–141421 and Investment Company Act Registration No. 811–22038.

b. Availability of Information Regarding the Fund and the Shares

The daily NAV for the Fund will be calculated each business day and disseminated publicly to all market participants at the same time.

Prior to the opening each business day, the Fund will make publicly available on its Web site a file of all the portfolio securities held by the Fund and the quantities thereof, as of the close of business on the prior business day, reflecting all securities bought and sold on such prior business day. This information will be available to investors and market participants accessing the Fund's Web site and will form the basis for the Fund's calculation of NAV as of the close of regular trading on the Exchange (ordinarily 4 p.m.).

Amex will disseminate, at least every 15 seconds, during regular Amex trading hours, through the facilities of the Consolidated Tape Association, an estimated value for the Fund on a per-Share basis (for purposes of proposed NYSE Arca Equities Rule 8.600, the ''Portfolio Indicative Value''). An independent pricing service will calculate a Portfolio Indicative Value for the Fund in the manner discussed below. The Portfolio Indicative Value is designed to provide investors with a reference value which can be used in connection with other related market information. Amex will not guarantee the accuracy or completeness of the Portfolio Indicative Value. None of the Trust, the Board of Trustees of the Fund, or the Advisor is responsible for the calculation or dissemination of the Portfolio Indicative Value, and they make no warranty as to its accuracy or its usefulness to traders of Shares. The pricing service will calculate the Portfolio Indicative Value during hours of trading on the Exchange by dividing the ''Estimated Fund Value'' as of the time of the calculation by the total Shares outstanding. ''Estimated Fund Value'' is the sum of the estimated amount of cash held in the Fund's portfolio, the estimated value of the securities held in the Fund's portfolio, and the estimated amount of accrued interest, minus the estimated amount of liabilities.

The Fund's Web site will display the Prospectus, the SAI, and additional quantitative information that is updated on a daily basis, including, among other things, the following information, on a per-Share basis: (1) The prior business day's NAV; (2) and the reported mid-point of the bid-ask spread at the time of NAV calculation (''Bid-Ask Price''); (3) a calculation of the premium or discount of the Bid-Ask Price against such NAV; and (4) data in chart format displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Amex also intends to disseminate a variety of data with respect to Shares on a daily basis, by means of CTA and CQ High Speed Lines, including quotation and last-sale data information and the number of Shares outstanding.

As previously noted, prior to the opening of each business day, the Fund will make publicly available on its Web site the portfolio securities held by the Fund as of the close of business on the prior business day. All investors and market participants will have access to the Fund's Web site. This Web site disclosure of portfolio holdings will be made daily and will include, as applicable, the specific types and amounts of short-term debt securities and the amount of cash held in the portfolio of the Fund.

As with other exchange-traded funds, information regarding secondary market prices and volume of the Shares will be broadly available in real time throughout the trading day.

c. Trading Halts

The Exchange represents that it will cease trading the Shares of the Fund if the listing market stops trading the Shares because of a regulatory halt similar to a halt based on NYSE Arca Equities Rule 7.12. UTP trading in the Shares will also be governed by the trading halt provisions of NYSE Arca Equities Rule 7.34, relating to temporary interruptions in the calculation or wide dissemination of the Portfolio Indicative Value or the value of the underlying index.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund.[7] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which trading is not occurring in the securities comprising the Disclosed Portfolio and/or the Financial Instruments of a Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

d. Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products (which will include Managed Fund Shares) to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.[8]

The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliate members of the ISG.[9]

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

e. Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of applicable suitability requirements and the special characteristics and risks associated with trading the Shares, including risks inherent with trading the Shares during the Opening and Late Trading Sessions when the updated Portfolio Indicative Value is not calculated and disseminated. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit size (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares;[10] (3) how

[7] *See* NYSE Arca Equities Rule 7.12, Commentary .04.

[8] *See e-mail* dated April 4, 2008 from Michael Cavalier, Associate General Counsel, NYSE Group, Inc., to Christopher Chow, Special Counsel, Commission.

[9] A list of the current members and affiliate members of ISG may be found at *http://www.isgportal.com*. The Exchange notes that not all of the Fund's portfolio holdings may trade on exchanges that are members or affiliate members of the ISG.

[10] NYSE Arca Equities Rule 9.2(a) provides that ETP Holders, before recommending a transaction, must have reasonable grounds to believe that the recommendation is suitable for the customer based

information regarding the Portfolio Indicative Value is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (5) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Trust's Registration Statement. The Bulletin will discuss any exemptive, no-action, or interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4 p.m. Eastern Time each trading day.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5)[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. The Exchange believes that the proposed rule change will enhance competition among market participants to the benefit of investors and the marketplace.

In addition, the proposed rule change is consistent with Rule 12f–5 under the Act[13] because the Exchange deems the Shares to be equity securities, thus rendering the Shares subject to the Exchange's 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 has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2008–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

All submissions should refer to File Number SR–NYSEArca–2008–28. 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–NYSEArca–2008–28 and should be submitted on or before May 2, 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.[14] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act[15] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. 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,[16] which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.[17] The Commission notes that it approved the original listing and trading of the Shares on Amex.[18] The Commission also finds that the proposal is consistent with Rule 12f–5 under the Act,[19] 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

on any facts disclosed by the customer as to his other security holdings and as to his financial situation and needs. Further, the rule provides, with a limited exception, that prior to the execution of a transaction recommended to a non-institutional customer, the ETP Holder shall make reasonable efforts to obtain information concerning the customer's financial status, tax status, investment objectives, and any other information that the ETP Holder believes would be useful to make a recommendation. *See* Securities Exchange Act Release No. 34–54026 (June 21, 2006), 71 FR 36850 (June 28, 2006) (SR–PCX–2005–115).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 17 CFR 240.12f–5.

[14] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78*l*(f).

[17] Section 12(a) of the Act, 15 U.S.C. 78l(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.

[18] *See supra* note 4.

[19] 17 CFR 240.12f–5.

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,[20] 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 and last-sale information regarding the Shares will be disseminated through the facilities of the CTA and Consolidated Quote High Speed Lines. Amex will disseminate through the facilities of the CTA an updated Portfolio Indicative Value on a per-Share basis at least every 15 seconds during regular Amex trading hours. The following information regarding the Trust will be disseminated on a daily basis: the portfolio securities held by the Trust; the NAV, which will be disseminated to all market participants at the same time; and the number of Shares outstanding.

The Commission also believes that the proposal is reasonably designed to prevent trading in the Shares when transparency is impaired. The Exchange represents that it will halt trading in the Shares if the listing market institutes a regulatory halt in trading of the Shares. The Exchange also has represented that it would follow the procedures with respect to trading halts set forth in NYSE Arca Equities Rule 7.34, which provides, inter alia, for trading halts in certain circumstances when the Portfolio Indicative Value is not being disseminated as anticipated.

The Commission notes that, if the Shares should be delisted by the listing exchange, NYSE Arca would no longer have authority to trade the Shares pursuant to this order.

In support of this proposal, the Exchange has made the following representations:

1. The Exchange's surveillance procedures are adequate to properly monitor trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

2. Prior to the commencement of trading, the Exchange would inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares, including risks inherent with trading the Shares during the Opening and Late Trading Sessions when the updated Portfolio Indicative Value is not calculated and disseminated, and of suitability recommendation requirements.

3. The Information Bulletin also would discuss the requirement that ETP Holders 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 these representations.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**.

Previously, the Commission 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 that 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,[21] that the proposed rule change (SR–NYSEArca–2008–28) is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7698 Filed 4–10–08; 8:45 am]

BILLING CODE 8011–01–P

[20] 5 U.S.C. 78k–1(a)(1)(C)(iii).

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11210]

Colorado Disaster # CO–00019 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 Colorado, dated 04/03/2008.

Incident: Salmonella Outbreak.

Incident Period: 03/08/2008 and continuing.

EFFECTIVE DATE: 04/03/2008.

EIDL Loan Application Deadline Date: 01/05/2009.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the 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: Alamosa.

Contiguous Counties:

Colorado: Conejos, Costilla, Huerfano, Rio Grande, Saguache.

The Interest Rate is: 4.000.

The number assigned to this disaster for economic injury is 112100.

The State which received an EIDL Declaration # is Colorado.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: April 3, 2008.

Steven C. Preston,

Administrator.

[FR Doc. E8–7723 Filed 4–10–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11211 and # 11212]

South Carolina Disaster # SC–00006

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of South Carolina dated 04/03/2008.

Incident: Severe Storms and Tornadoes.

Incident Period: 03/15/2008.

EFFECTIVE DATE: 04/03/2008.

Physical Loan Application Deadline Date: 06/02/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 01/05/2009.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Aiken, Allendale, Williamsburg.

Contiguous Counties:

South Carolina: Bamberg, Barnwell, Berkeley, Clarendon, Colleton, Edgefield, Florence, Georgetown, Hampton, Lexington, Marion, Orangeburg, Saluda.

Georgia: Burke, Richmond, Screven.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	5.500
Homeowners Without Credit Available Elsewhere	2.750
Businesses With Credit Available Elsewhere	8.000
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11211 C and for economic injury is 11212 0.

The States which received an EIDL Declaration # are South Carolina, Georgia.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

April 3, 2008.

Steven C. Preston,

Administrator.

[FR Doc. E8–7724 Filed 4–10–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 6185]

Fine Arts Committee Notice of Meeting

The Fine Arts Committee of the Department of State will meet on April 25, 2008 at 10 a.m. in the Henry Clay Room of the Harry S. Truman Building, 2201 C Street, NW., Washington, DC. The meeting will last until approximately 11 a.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting on November 16, 2007 and the announcement of gifts and loans of furnishings as well as financial contributions from January 1, 2007 through December 31, 2007.

Public access to the Department of State is strictly controlled and space is limited. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office at (202) 647–1990 or send an e-mail to *Craighillmf@state.gov* by April 17 to make arrangements to enter the building. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: April 4, 2008.

Marcee F. Craighill,

Secretary, Fine Arts Committee, Department of State.

[FR Doc. E8–7813 Filed 4–10–08; 8:45 am]

BILLING CODE 4710–35–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification System

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides a revised statement of policy concerning the FHWA's process for reviewing Buy America Waiver requests on Federal-aid highway construction projects. The FHWA has established a Web page to provide the public with an informal notice and comment opportunity for all Buy America waiver requests.

DATES: The policy became effective on December 26, 2007, when the President signed Public Law 110–161, the ''Consolidated Appropriations Act, 2008'' into law.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via e-mail at *gerald.yakowenko@dot.gov.* For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366–4928, or via e-mail at *michael.harkins@dot.gov.* Office hours for the FHWA are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available.

This notice provides information regarding the FHWA's implementation of an informal Buy America waiver notification and comment process as required by Public Law 110–161, the ''Consolidated Appropriations Act, 2008.'' Division K, Section 130 of this law states:

> Not less than 15 days prior to waiving, under her statutory authority, any Buy America requirement for Federal-aid highway projects, the Secretary of Transportation shall make an informal public notice and comment opportunity on the intent to issue such waiver and the reasons therefore: Provided, That the Secretary shall provide an annual report to the Appropriations Committees of the Congress on any waivers granted under the Buy America requirements.

The FHWA has established an internet Web page (*http://www.fhwa.dot.gov/construction/contracts/waivers.cfm*) to provide notification and the opportunity for public comment for every Buy America waiver. Interested parties are encouraged to subscribe to this notification system to receive notifications regarding current waiver requests. The FHWA will review and consider all comments received during the comment period before issuing a final decision on any waiver request.

Authority: 23 U.S.C. 313; Pub. L. 110–161, 23 CFR 635.410.

Issued on: April 4, 2008.

James D. Ray,

Acting Federal Highway Administrator.

[FR Doc. E8–7664 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–99–5748, FMCSA–99–6156]

Qualification of Drivers; Exemption Renewals; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 6 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has reviewed the comments submitted in response to the previous announcement and concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The comment period ended on March 10, 2008.

Discussion of Comments

FMCSA received no comment in this proceeding.

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 6 renewal applications, FMCSA renews the Federal vision exemptions for Dennis J. Lessard, Harry R. Littlejohn, James D. Simon, Wayland O. Timberlake, Robert J. Townsley, and Jeffery G. Wuensch.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA.

The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: April 4, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8–7661 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–99–5748, FMCSA–00–8398, FMCSA–03–15893, FMCSA–03–16241, FMCSA–03–16564, FMCSA–05–22194, FMCSA–05–22727]

Qualification of Drivers; Exemption Renewals; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 20 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has reviewed the comments submitted in response to the previous announcement and concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202)–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov*

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The comment period ended on March 14, 2008.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment was considered and discussed below.

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA's policy to grant exemptions from the FMCSR, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the Agency's reliance on conclusions drawn from the vision waiver program; (3) claims the Agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31136(e) and 31315); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 20 renewal applications, FMCSA renews the Federal vision exemptions for Eric D.

Bennett, Lee A. Burke, Barton C. Caldara, Charlie F. Cook, Allan Darley, John K. DeGolier, Robin S. England, Richard Hailey, Jr., Robert V. Hodges, George R. Knavel, John R. Knott, III, John K. Love, Roger D. Mollak, Edward D. Pickle, Ezequiel M. Ramirez, Kent S. Reining, James L. Schmitt, Earl W. Sheets, Thomas E. Voyles, Jr., and James T. Wortham, Jr.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: April 4, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8–7666 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236, as detailed below.

Docket Number FRA–2008–0016

Applicant: Union Pacific Railroad Company, Mr. John J. Hovanec, AVP Engineering Design, 1400 Douglas Street, Stop 0910, Omaha, Nebraska 68179.

The Union Pacific Railroad Company (UP) seeks approval of the proposed discontinuance and removal of the block signal system on the UP Granville Industrial Lead between Mileposts 92.4 and 99.5, from Wiscona through Granville, Wisconsin. Train movements on the affected portion of track will be governed by UP Rule 6.28.

The reason given for the proposed changes is that the block signal system is no longer needed for safe train operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

All communications concerning this proceeding should be identified by Docket Number FRA–2008–0016 and may be submitted by one of the following methods:

Web site: http://www.regulations.gov. Follow the online instructions for submitting comments.

Fax: 202–493–2251.

Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.

Hand Delivery: 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.regulations.gov.*

Issued in Washington, DC on April 7, 2008.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E8–7659 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236, as detailed below.

Docket Number FRA–2008–0024

Applicant: BNSF Railway, Mr. Ralph Young, Director Signal Engineering, 4515 Kansas Avenue, Kansas City, Kansas 66106–1199.

The BNSF Railway (BNSF) seeks approval of the proposed discontinuance and removal of two operative approach signals. The operative approach signals are located on the Freight Lead, Signal No. 2E, and on the Fuel Lead, Signal No. 1E, at Jarales Control Point in Belen, New Mexico, on the Southwest Division, Clovis Subdivision (LS 7100, Milepost 895.31). The reason for the proposed changes is that new absolute signals at Jarales Control Point were installed on a signal bridge and their preview is no longer an issue. In addition, the operative approach signals may be creating operational confusion for the train crews.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (Docket Number FRA–2008–0024) and may be submitted by any of the following methods:

Web site: http://www.regulations.gov. Follow the online instructions for submitting comments.

Fax: 202–493–2251.

Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.

Hand Delivery: 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC, on April 7, 2008.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E8–7680 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236, as detailed below.

Docket Number FRA–2008–0011

Applicant: New York, Susquehanna and Western Railway Corporation, Mr. Nathan R. Fenno, President, 1 Railroad Avenue, Cooperstown, New York 13326.

The New York, Susquehanna and Western Railway Corporation seeks approval of the proposed discontinuance and removal of the interlocking signal system at CP Forks, Milepost (MP) 201 to MP 205 and MP 203.62 to MP 205 on two main lines originating in Binghamton, New York, the Syracuse Main Line and the Utica Main Line.

The reason given for the proposed changes is that since June 2006, the Utica Main Line has been out of service from MP 205 to MP 243.51 due to extensive flooding. The Utica Main Line from MP 202.62 to MP 205 is used as a storage spur under the Maintenance of Way supervision.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

All communications concerning this proceeding should be identified by Docket Number FRA–2008–0011 and may be submitted by one of the following methods:

- *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the DOT electronic site;
- *Fax:* 202–493–2251;
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590; or
- *Hand Delivery:* Room W12–140 of the U.S. Department of Transportation West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Issued in Washington, DC, on April 7, 2008.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E8–7681 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Lavacot Locomotive Works, Inc.

Docket Number FRA–2008–0021

Lavacot Locomotive Works, Inc. (LLW) requests a waiver from the requirement of 49 CFR Section 224.103(b), Characteristics of Retroreflective Sheeting; Color. LLW requests that it be permitted to use the color red instead of yellow to comply with this rule.

LLW owns two ex-Southern Pacific Railroad (SP) SD–9 type locomotives, which are occasionally leased and used by the Portland & Western Railroad in freight service. The Albany & Eastern Railroad and the Port of Tillamook Bay Railroad also have used them. All three of these railroads are shortlines located in northwestern Oregon. When the locomotives were last in SP service, they were numbered SP 4364 and 4433.

When delivered from the builder, they were identified as SP 5399 and 5426, respectively. These locomotives were built in 1955 and rebuilt by SP in the 1970s.

Wishing to acknowledge the historic heritage of these locomotives, LLW has returned the ex-SP 4364 to its, as built, ''Black Widow'' livery and original number of 5399. LLW intends to repaint and renumber 4433 similarly. The Black Widow paint scheme consists of a black car body with silver ends and a 9-inch red side frame stripe immediately below the walkway. The front end, in addition to the silver painted nose, has a horizontal silver side stripe above two orange stripes, all trailing back toward the cab. The trucks are painted silver.

Title 49 CFR Part 224, *Reflectorization of Rail Freight Rolling Stock* (Final Rule), does not provide a mechanism for facilitating the application of historically correct paint schemes to antique or historic rail equipment. LLW states in its request for relief that they recognize the importance of the visibility issue addressed by the rule and proposes to substitute reflectorized red material meeting the same standards, as required by 49 CFR Section 224.103(b). LLW states that red reflectorized material is widely used for safety in such applications as striping on grade crossing gate arms. Also, the trucks of the locomotives are painted silver to enhance visibility.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2008–0021) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC, on April 7, 2008.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E8–7682 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008 0033]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ANCHOR MANAGEMENT.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008–XXXX at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before May 12, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–XXXX. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ANCHOR MANAGEMENT is:

Intended Use: ''Day sailing trips.''

Geographic Region: ''Galveston Bay and possibly the Gulf of Mexico''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: April 2, 2008.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E8–7678 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008–0030]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel REEL CLASS II.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008–0030 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before May 12, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–0030. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel REEL CLASS II is:

Intended Use: ''Recreational passenger transportation. The intent is to charter the yacht to paying customers.''

Geographic Region: ''Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, District of Columbia, Maryland, Delaware, New Jersey, Connecticut, Pennsylvania, New York, Rhode Island, Massachusetts, New Hampshire, Maine, Ohio, Michigan, Wisconsin, Illinois, U.S. Virgin Islands, Puerto Rico''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: March 27, 2008.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E8–7679 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008 0034]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel THE KRAKEN.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008–XXXX at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.–flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before May 12, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–XXXX. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203,

Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel THE KRAKEN is:

Intended Use: ''Charter sail boat.''

Geographic Region: ''Texas, Florida, California.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: April 2, 2008.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E8–7684 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2008 0032]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel BELLISSIMA.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2008–0032 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before May 12, 2008.

ADDRESSES: Comments should refer to docket number MARAD–2008–0032.

Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel BELLISSIMA is:

Intended Use: ''Carrying passengers for hire only.''

Geographic Region: ''Commercial service between Port of Bellingham, WA and Coranado, CA, adjacent and coastal waters only''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: April 2, 2008.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E8–7687 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA Docket No. NHTSA–2008–0071]

National Advisory Council; Notice of Federal Advisory Committee Meeting

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

ACTION: National Advisory Council; Notice of Federal Advisory Committee Meeting.

SUMMARY: NHTSA announces a meeting of the National Emergency Medical Services Advisory Council (NEMSAC) to be held in Washington, DC. This notice announces the date, time and location of the meeting, which will be open to the public. The purpose of NEMSAC is to establish a nationally recognized council of emergency medical services representatives and consumers to provide advice and recommendations regarding EMS to the U.S. DOT's National Highway Traffic Safety Administration (NHTSA).

DATES: The meeting will be held on April 24, 2008 from 8:45 a.m. to 5 p.m. and April 25, 2008 from 8:45 a.m. to 12 Noon. A public comment period will take place on April 25, 2008, between 10:45 a.m. and 11:15 a.m.

Comment Date: Written comments or requests to make oral presentations must be received by April 17, 2008.

ADDRESSES: The meeting will be held at the U.S. Department of Transportation (DOT) 1200 New Jersey Avenue, SE., Conference Rooms # 8–10, Main Floor, West Wing, Washington, DC 20590. Persons wishing to make an oral presentation or who are unable to attend or speak at the meeting may submit written comments. Written comments and requests to make oral presentations at the meeting should reach Drew Dawson at the address listed below and must be received by April 17, 2008.

All submissions received must include the docket number, NHTSA–2008–0071 and may be submitted by any one of the following methods:

You may submit or retrieve comments online through the Document Management System (DMS) at *http://dms.dot.gov/submit.* The DMS is available 24 hours each day, 365 days each year. Electronic submission and

retrieval help guidelines are available under the help section of the Web site.

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at *http://www.archives.gov and the Government Printing Office's database at http://www.access.gpo.gov/nara.*

Please note that even after the comment closing date, we will continue to file relevant information in the docket as it becomes available.

E-mail: drew.dawson@dot.gov or *susan.mchenry@dot.gov*

Fax: (202) 366–7149

FOR FURTHER INFORMATION CONTACT: Drew Dawson, Director, Office of Emergency Medical Services, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., NTI–140, Washington, DC 20590, Telephone number (202) 366–9966; E-mail *Drew.Dawson@dot.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. App. 1 *et seq.*) The NEMSAC will be holding its first meeting on Thursday and Friday, April 24 and 25, 2008, in Conference rooms #8–10 on the Main Floor, West Wing, of the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

Agenda of Council Meeting, April 24–25, 2008

The tentative agenda includes the following:

Thursday, April 24, 2008

(1) Federal Advisory Committee Act and Ethics Briefing;

(2) Swearing in of members;

(3) Introduction of Chair and Self-introduction of members;

(4) Charge to Council and Chair's remarks;

(5) Office of EMS overview;

(6) Overview of Federal Interagency Committee on EMS (FICEMS);

(7) Overview of Office of EMS projects.

Friday, April 25, 2008

(1) NEMSAC Operations & Procedures;

(2) Council Discussion of EMS issues;

(3) Public comment period;

(4) Next steps and future meetings.

A public comment period will take place on April 25, 2008, between 10:45 a.m. and 11:15 a.m.

Public Attendance: The meeting is open to the public. Persons with disabilities who require special assistance should advise Drew Dawson of their anticipated special needs as early as possible. Members of the public who wish to make comments on Friday, April 25 between 10:45 a.m. and 11:15 a.m. are requested to register in advance. In order to allow as many people as possible to speak, speakers are requested to limit their remarks to 3 minutes. For those wishing to submit written comments, please follow the procedure noted above.

This meeting will be open to the public. Individuals wishing to register must provide their name, affiliation, phone number, and e-mail address to Drew Dawson by e-mail at *drew.dawson@dot.gov* or by telephone at (202) 366–9966 no later than April 17, 2008. There will be limited seating, so please register early. Pre-registration is necessary to comply with security procedures. Picture I.D. must also be provided to enter the DOT Building and it is suggested that visitors arrive 30 minutes early in order to facilitate entry. The Visitor entrance is on the New Jersey Avenue side of the building.

Minutes of the NEMSAC Meeting will be available to the public online through the DOT Document Management System (DMS) at: *http://dms.dot.gov* under the docket number listed at the beginning of this notice.

Jeffrey P. Michael,

Acting Associate Administrator for Research and Program Development.

[FR Doc. E8–7660 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2008–22720 (Notice No. 08–04)]

Hazardous Materials Instructor Training Grants Program; Availability of Funds

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: Notice.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration (PHMSA) announces the availability of funds and solicitation of applications for grants to be awarded under the Hazardous Materials Instructor Training (HMIT) Grants Program for fiscal year 2009. The HMIT Grants Program is open to non-profit hazardous materials (hazmat) employee organizations demonstrating expertise in conducting a training program for hazmat employees, and the ability to reach a target population of hazmat employees. For the purposes of the HMIT Grants program, an ''employee organization'' is a labor union, association, group, or similar organization the members of which are hazmat employees and the stated purpose of which is to represent hazmat employees.

DATES: Application packages will be available April 15, 2008. Completed applications must be submitted by July 15, 2008. Grants will be awarded in September 2008.

ADDRESSES: Applications may be submitted electronically at *http://www.grants.gov* or mailed to Charles G. Rogoff, HMIT Grants Manager, Office of Hazardous Materials Planning and Analysis; Pipeline and Hazardous Materials Safety Administration; U.S. Department of Transportation; Room E23–301; East Building 1200 New Jersey Ave., SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Charles G. Rogoff, HMIT Grants Manager; Office of Hazardous Materials Planning and Analysis; Pipeline and Hazardous Materials Safety Administration; U.S. Department of Transportation; Room E23–301; East Building 1200 New Jersey Ave., SE., Washington, DC 20590; Telephone: 202–366–0001.

SUPPLEMENTARY INFORMATION:

Availability of Funds. The Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005 (the Act; Title VII of Pub. L. 109–59, 119 Stat. 1144 (August 10, 2005)) provides for the Secretary of Transportation, subject to the availability of funds, to make grants for training instructors to train hazardous materials employees (hazmat employees) and, to the extent determined appropriate, for such instructors to train hazmat employees. The Hazardous Materials Instructor Training (HMIT) Grants Program is funded by registration fees collected from certain hazardous materials shippers and carriers in accordance with 49 CFR Part 107, Subpart G. Approximately $4,000,000 will be awarded in September 2008 for the HMIT Grants Program. These awards are available for use during a twelve-month budget period [October 1, 2008 to September 30, 2009]. We expect grant awards to range from $250,000 to $500,000 depending upon the number and quality of applications received. We encourage the addition of non-Federal funds to support the training program, but cost-sharing or matching funding is not required.

Objective of the HMIT Grants Program. The objective of the HMIT Grants Program is to ''train the trainer''—that is, to train hazmat

instructors who will then train hazmat employees in the proper handling of hazardous materials. Properly planned and maintained training programs are essential to ensuring that hazmat employees receive an initial and continuing understanding of the risks involved in transporting hazardous materials, the relevant requirements that have to be met, and the need for performing their duties in a way that will ensure their safety and the safety of others. Experience shows that effective training of employees can effectively reduce risk and the likelihood of hazmat incidents. Effective training of employees is key to ensuring that hazardous materials are transported safely.

Due to budget and other limitations, many hazmat employees cannot leave their employment locations for extended periods of time to attend training courses. Instructors trained under this grant program can offer training to a large number of hazmat employees at locations within close proximity to the hazmat employees' places of employment, thereby significantly minimizing employee travel cost and training time.

As provided by the Act, funds awarded to an organization in accordance with the HMIT Grants Program may be used to train hazmat instructors and, to the extent determined to be appropriate, for such instructors to train hazmat employees. PHMSA has determined that, because we have limited funding available, grants awarded for FY 2009 (October 1, 2008–September 30, 2009) must be used exclusively for ''train the trainer'' programs. Grant funds are not authorized to be used to fund an organization's existing hazmat training program.

Eligibility. The HMIT Grants Program is open to non-profit hazardous materials employee organizations demonstrating: (1) Expertise in conducting a training program for hazmat employees, and (2) the ability to reach a target population of hazmat employees. For the purposes of the HMIT Grants program, an ''employee organization'' is a labor union, association, group, or similar organization the members of which are hazardous materials employees and the stated purpose of which is to represent hazmat employees.

Two or more non-profit hazmat employee organizations may team together to submit a joint grant application. A hazmat employee, as defined under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180), is a person who, in the course of full time, part time, or temporary employment, directly affects hazardous materials transportation safety. Hazmat employees include self-employed persons, including owner-operators of motor vehicles, vessel, or aircraft crewmembers and employees, and railroad signalmen and maintenance-of-way employees. The term includes a person who:

(1) Loads, unloads, or handles hazardous materials;

(2) Designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

(3) Prepares hazardous materials for transportation;

(4) Is responsible for safety of transporting hazardous materials; or

(5) Operates a vehicle used to transport hazardous materials.

In accordance with § 172.704 of the HMR hazmat employees must be trained in four areas:

(1) General awareness/familiarization training providing familiarity with the requirements of the HMR and enabling the hazmat employee to recognize and identify hazardous materials consistent with the hazard communication requirements of the HMR,

(2) Function-specific training concerning the requirements of the HMR specifically applicable to the functions performed by the hazmat employee,

(3) Safety training including measures to protect the employee from the hazards associated with the hazardous materials to which he or she may be exposed in the workplace, and

(4) Security awareness training providing an awareness of the security risks associated with hazardous materials transportation and measures to enhance transportation security.

For example, function-specific training would include training for persons who are responsible for preparing shipments for transportation, including selecting an appropriate packaging, filling the packaging, applying applicable package marks and labels, and preparing shipping documentation. Function-specific training would also include training for persons responsible for performing transportation functions, such as loading or unloading of containers and transport conveyances. Safety training would address training related to the specific hazards associated with the materials to which a hazmat employee may be exposed and protective measures in the event of an emergency, such as hazards and protective measures associated with ethanol fuel blends.

Application requirements. The requirements in 49 CFR Part 19, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations'' apply to the HMIT grant program.

An applicant must address the following factors:

(1) Qualification as a non-profit hazmat employee organization, including the type or types of hazmat employees represented and the number of employees represented.

(2) Expertise and experience in conducting hazmat employee trainer education programs.

(3) Ability to train hazmat instructors to reach and involve a target population of hazmat employees.

(4) Training needs assessment for the target population of hazmat instructors and employees. The purpose of a needs assessment is to assess the level of understanding held by students and compare this with the desired level of understanding at the completion of training. Also required is an estimate of the numbers of instructors and employees requiring training. The training curriculum and delivery methods must be flexible enough to address the needs of the students as determined by the needs assessment.

(5) Prioritization of training needs based on the needs assessment.

(6) A training curriculum for the instructors to be trained in the program and an explanation of how the training will be provided (e.g., classroom instruction, self-directed training using booklets, CD or DVD modules, or computer-based programs). The training curriculum must include details on the specific HMR training requirements that will be covered.

(7) A process for assessing the effectiveness of the training program(s) and evaluating students. This process will involve a continuous system for evaluating and monitoring employee competencies including changes in regulatory requirements, business or operational practices, introduction of new equipment or procedures or any change in business processes that require revised or new competencies on the part of hazmat employees. Course evaluation involves the evaluation of student performance as well the evaluation of the trainer, and the training program.

(8) A process to validate that the training program accomplished its intended purpose and its objectives were achieved in the most cost effective

manner. Validation involves the hazmat employer, the hazmat employee and the trainer and the training organization.

(9) A statement-of-work describing the amount of funding requested and the activities for which the funding will be used.

Review and selection process. A committee of Federal agency representatives with expertise in hazmat instructor training programs will evaluate the grant applications. Each grant application will be evaluated in accordance with the following criteria:

(1) Organization demonstrates quantified need for training (15%).

(2) Degree to which the proposed training program meets the identified training needs (15%).

(3) Number of instructors to be trained (15%).

(4) Projected number of hazmat employees each instructor is expected to train (10%).

(5) Projected impact of the training in reducing risk and enhancing hazmat transportation safety (15%).

(6) Organization's prior experience in providing hazmat instructor and employee training and the facilities/mechanisms in place to conduct the training (10%).

(7) Efficiency and cost associated with conducting the training (10%)

(8) Ability to account for program expenditures and program outcomes (10%).

The PHMSA Administrator will have the final approval to evaluate and select applicants and award financial assistance. The agency may ask an applicant to modify its objectives, work plan, or budget and provide supplemental information prior to award. The Administrator's decision is final.

Issued in Washington, DC on April 7, 2008.

Theodore L. Willke,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. E8–7703 Filed 4–10–08; 8:45 am]

BILLING CODE 4910–60–P

Surface Transportation Board

[STB Docket No. MC–F–21027]

Stagecoach Group PLC and Coach USA, Inc., et al.—Control—Megabus Northeast LLC

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving Finance Transaction.

SUMMARY: On March 13, 2008, Stagecoach Group PLC (Stagecoach) and its subsidiary, Coach USA, Inc. (Coach), noncarriers, and various subsidiaries of each (collectively, applicants) filed an application under 49 U.S.C. 14303 to acquire control of the newly created Megabus Northeast LLC (Northeast), which is owned by co-applicant Independent Bus Company, Inc. (Independent), a motor passenger carrier and wholly owned subsidiary of Coach. Independent also wholly owns Megabus USA, LLC, a motor carrier of passengers. Applicants state that currently Northeast does not hold federally issued authority to operate as a motor common carrier of passengers. Applicants supplemented the application in a March 19, 2008 filing. This application is filed on the premise that Northeast actually obtains the authority it seeks. Persons wishing to oppose this application must follow the rules at 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by May 27, 2008. Applicants may file a reply by June 10, 2008. If no comments are filed by May 27, 2008, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–21027 to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, send one copy of comments to Applicants' representative: David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Avenue, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Julia Farr (202) 245–0359 [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339].

SUPPLEMENTARY INFORMATION: Stagecoach is a public limited company organized under the laws of Scotland. It is one of the world's largest providers of passenger transportation services and had annual revenues for the fiscal year ending April 30, 2007, of over $3 billion. Stagecoach and certain intermediate subsidiaries acquired control of Coach in September 1999.[1] Coach, a Delaware corporation, controls numerous federally regulated motor passenger carriers. The motor carriers controlled by Coach had gross operating revenues for the 12-month period ending with the date of this application greater than the $2 million threshold required for Board jurisdiction.

Northeast is currently a noncarrier, but plans to seek authorization from the Federal Motor Carrier Safety Administration to operate as a motor common carrier of passengers. Once authorization is granted, Northeast will utilize a fleet of motorcoaches to provide scheduled express bus service over regular routes between New York and several cities in the Northeast and Middle Atlantic states, including Washington and Boston. Applicants state that initially, Megabus USA may provide this service under its operating authority. Once Northeast obtains authority, Northeast would assume responsibility for conducting these operations in the Northeast and Middle Atlantic states, and Megabus USA will continue to provide service outside the Northeast and Middle Atlantic regions.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction found to be consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicants have submitted information, as required by 49 CFR 1182.2, including the information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). Applicants state that the proposed transaction will not adversely impact the adequacy of transportation services available to the public, the fixed charges incurred by Northeast, or the interests of any motor carrier employees. Additional information, including a copy of the application, may be obtained from the Applicants' representative.

On the basis of the application, and if Northeast does in fact obtain the authority as described above, we find that the proposed acquisition is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated, and unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

[1] *See Stagecoach Holdings PLC—Control—Coach USA, Inc., et al.,* STB Docket No. MC–F–29048 (STB served July 22, 1999).

1. The proposed finance transaction is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this notice will be deemed as having been vacated.

3. This notice will be effective on May 27, 2008, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Decided: April 7, 2008.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–7764 Filed 4–10–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0161]

Agency Information Collection (Medical Expense Report) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 12, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0161'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0161.''

SUPPLEMENTARY INFORMATION:

Title: Medical Expense Report, VA Form 21–8416.

OMB Control Number: 2900–0161.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8416 is completed by claimants in receipt of or claiming income-based benefits to report medical expenses paid. Unreimbursed medical expenses may be excluded as countable income in determining a claimant's entitlement to income-based benefits and the rate payable.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 22, 2008, at page 3808.

Affected Public: Individuals or households.

Estimated Annual Burden: 96,400 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 48,200.

Dated: April 4, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–7746 Filed 4–10–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0075]

Agency Information Collection (Statement in Support of Claim) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 12, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0075'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0075.''

SUPPLEMENTARY INFORMATION:

Title: Statement in Support of Claim, VA Form 21–4138.

OMB Control Number: 2900–0075.

Type of Review: Extension of a currently approved collection.

Abstract: Statements submitted by or on behalf of a claimant must contain a certification by the respondent that the information provided to VA is true and correct in support of various types of benefit claims processed by VA. VA Form 21–4138 is to used collect the statement in support of such claims.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 23, 2008, at pages 4047–4048.

Affected Public: Individuals or households.

Estimated Annual Burden: 188,000 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 752,000.

Dated: April 4, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–7747 Filed 4–10–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0510]

Agency Information Collection (Application for Exclusion of Children's Income) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 12, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0510'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0510.''

SUPPLEMENTARY INFORMATION:

Title: Application for Exclusion of Children's Income, VA Form 21–0571.

OMB Control Number: 2900–0510.

Type of Review: Extension of a currently approved collection.

Abstract: The data collected on VA Form 21–0571 is use to determine whether children's income can be excluded from consideration in determining a parent's eligibility for non-service connected pension. A veteran's or surviving spouse's rate of improved pension is determined by family income. However, children's income may be excluded if it is unavailable or if including that income would cause a hardship.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 22, 2008, at pages 3807–3808.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,025 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 2,700.

Dated: April 4, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–7748 Filed 4–10–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0052]

Agency Information Collection (Report of Medical Examination for Disability Evaluation) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 12, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0052'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0052.''

SUPPLEMENTARY INFORMATION:

Title: Report of Medical Examination for Disability Evaluation, VA Form 21–2545.

OMB Control Number: 2900–0052.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–2545 is completed by claimants prior to undergoing a VA examination for disability benefits. The examining physician also completes the form to record the findings of such examination. An examination is required where the reasonable probability of a valid claim is indicated in any claims for disability compensation or pension, including claims for benefits based on the need of a veteran, surviving spouse, or parent for regular aid and attendance, and for benefits based on a child's' incapacity of self-support. VA uses the data to determine the level of disability.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 23, 2008, at page 4049.

Affected Public: Individuals or households.

Estimated Annual Burden: 45,000 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 180,000.

Dated: April 4, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–7749 Filed 4–10–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0094]

Agency Information Collection (Supplement to VA Forms 21–526, 21–534, and 21–535 (for Philippine Claims)) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995

(44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 12, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0094'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0094.''

SUPPLEMENTARY INFORMATION:

Title: Supplement to VA Forms 21–526, 21–534, and 21–535 (for Philippine Claims), VA Form 21–4169.

OMB Control Number: 2900–0094.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–4169 is used to collect certain applicants' service information, place of residence, proof of service, and whether the applicant was a member of pro-Japanese, pro-German, or anti-American Filipino organizations. VA uses the information collected to determine the applicant's eligibility for benefits based on Commonwealth Army of the Philippines or recognized guerrilla services.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 23, 2008, at page 4048.

Affected Public: Individuals or households.

Estimated Annual Burden: 250 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 1,000.

Dated: April 4, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–7750 Filed 4–10–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0101]

Proposed Information Collection (Eligibility Verification Reports); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine and verify entitlement to income-based benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 10, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov*. Please refer to ''OMB Control No. 2900–0101'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: Eligibility Verification Reports (EVR).

a. Eligibility Verification Report Instructions, VA Form 21–0510.

b. Old Law and Section 306 Eligibility Verification Report (Surviving Spouse), VA Form 21–0512S–1.

c. Old Law and Section 306 Eligibility Verification Report (Veteran), VA Form 21–0512V–1.

d. Old Law and Section 306 Eligibility Verification Report (Children Only), VA Form 21–0513–1.

e. DIC Parent's Eligibility Verification Report, VA Forms 21–0514 and 21–0514–1.

f. Improved Pension Eligibility Verification Report (Veteran With No Children), VA Forms 21–0516 and 21–0516–1.

g. Improved Pension Eligibility Verification Report (Veteran With Children), VA Forms 21–0517 and 21–0517–1.

h. Improved Pension Eligibility Verification Report (Surviving Spouse With No Children), VA Forms 21–0518 and 21–0518–1.

i. Improved Pension Eligibility Verification Report (Child or Children), VA Forms 21–0519C and 21–0519C–1.

j. Improved Pension Eligibility Verification Report (Surviving Spouse With Children), VA Forms 21–0519S and 21–0519S–1.

OMB Control Number: 2900–0101.

Type of Review: Extension of a currently approved collection.

Abstract: VA uses Eligibility Verification Reports (EVR) forms to verify a claimant's continued entitlement to benefits. Claimants who applied for or receives Improved Pension or Parents' Dependency and Indemnity Compensation must promptly notify VA in writing of any changes in entitlement factors. EVRs are required annually by beneficiaries whose social security number (SSN) or whose spouse's SSN is not verified, or who has income other than Social

Security. Recipients of Old Law and Section 306 Pension are no longer required to submit annual EVRs unless there is a change in their income.

Affected Public: Individuals or households.

Estimated Annual Burden: 113,075 hours. The annual burden for VA Forms 21–0512S–1, 21–0512V–1, 21–0513–1, 21–0514, 21–0514–1, 21–0516, 21–0516–1, 21–0518, 21–0518–1, 21–0519C, and 21–0519C–1 is 9,8775 and 14,300 for VA Forms 21–0517, 21–0517–1, 21–0519S, and 21–0519S–1.

Estimated Average Burden per Respondent: The estimated burden respondent for VA Forms 21–0512S–1, 21–0512V–1, 21–0513–1, 21–0514, 21–0514–1, 21–0516, 21–0516–1, 21–0518, 21–0518–1, 21–0519C, and 21–0519C–1 is 30 minutes and 40 minutes for VA Forms 21–0517, 21–0517–1, 21–0519S, and 21–0519S–1.

Frequency of Response: Annually.

Estimated Number of Respondents: 219,000. The number of respondents for VA Forms 21–0512S–1, 21–0512V–1, 21–0513–1, 21–0514, 21–0514–1, 21–0516, 21–0516–1, 21–0518, 21–0518–1, 21–0519C, and 21–0519C–1 is 197,550 and 21,450 for VA Forms 21–0517, 21–0517–1, 21–0519S, and 21–0519S–1.

Dated: April 4, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–7751 Filed 4–10–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0666]

Agency Information Collection (Information Regarding Apportionment of Beneficiary's Award) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 12, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0666'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0666.''

SUPPLEMENTARY INFORMATION:

Title: Information Regarding Apportionment of Beneficiary's Award, VA Form 21–0788.

OMB Control Number: 2900–0666.

Type of Review: Extension of a currently approved collection.

Abstract: The data collected on VA Form 21–0788 is used to determine whether a veteran's or beneficiary's compensation and pension benefits may be allocated to his or her dependents. The veteran and the beneficiary use the form to report their income information in order for VA to determine the amount of benefit that may be apportioned to a spouse and children who do not reside with the veteran. A portion of the surviving spouse's benefits may be allocated to children of deceased veterans, who do not reside with the surviving spouse.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 23, 2008, at page 4047.

Affected Public: Individuals or households.

Estimated Annual Burden: 12,500 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 25,000.

Dated: April 4, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–7786 Filed 4–10–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

GR Modifier Use by the Department of Veterans Affairs

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) bills health benefit plans for the cost of certain care delivered to veterans. Starting with dates of service on and after January 1, 2006, when medical residents deliver care in a VA Medical Center or clinic under the supervision of an attending physician, VA will issue its bill in the name of the attending physician but append the Healthcare Common Procedural Coding System (HCPCS) Level II modifier ''–GR'' to the CPT code for the service. For billing and payment purposes, the ''–GR'' modifier when used on VA billings has the same effect as the ''–GC'' or ''–GE'' modifier when used in billings from non-VA providers. The use of the ''–GC'' ''–GE'' modifiers is generally discontinued in VA billings; they are used only as specifically permitted by VA policy.

FOR FURTHER INFORMATION CONTACT: Tony A. Guagliardo, Director, Business Policy, Chief Business Office (163), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 254–0384. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: The Veterans Health Administration (VHA) supports the Nation's largest graduate medical training program; each year approximately 30 percent of all the medical residents in the United States receive some or all of their training in a VHA Medical Center or clinic. VA policy is that the cost of clinical services provided by medical residents will be billed to third party health benefit plans as provided in 38 U.S.C. 1729 when the resident is supervised by an attending physician in accordance with VHA policy.

For coding and billing purposes, documentation of resident supervision is different in VHA Medical Centers or clinics than in the non-VA sector. VHA requires that any services provided in whole or in part by a resident must be notated with the designation ''–GR''. In the non-VA sector, services provided in whole or in part by a resident must be notated with either the ''–GC'' or ''–GE'' modifier as appropriate. The Health and Human Services (HHS) Centers for Medicare and Medicaid Services (CMS) has adopted billing rules which generally require the documentation of

the physical presence of a supervising attending physician for resident-delivered services to be eligible for payment under the Medicare or Medicaid program. As a result, non-VA sector graduate medical education programs are generally structured to take advantage of CMS-based payments.

When billings for resident-delivered services are issued in the non-VA sector, a Health Care Procedural Coding System (HCPCS) Level II modifier, ''–GC'' can be appended to the Common Procedural Terminology –4 (CPT–4) service code to show that the physical-presence billing requirement was met. In limited circumstances where the CMS billing rules do not require physical-presence supervision, the HCPCS modifier ''–GE'' can be used. In each case, billings in the non-VA sector are issued in the name of the attending physician.

These CMS billing rules have their foundation in technical aspects of HHS's funding of graduate medical education (GME) programs which do not apply to VA, for the simple reason that HHS does not fund VA GME programs. Additionally, VA does not bill Medicare or Medicaid for services provided to veterans.

VHA resident supervision policy is based on the standards of the Accreditation Council for Graduate Medical Education (ACGME) which provide that residents should be appropriately supervised in the context of progressively increasing responsibility, and that training programs must identify the decision-making which allocates responsibility to individual residents. VHA's resident supervision policy is set forth in its Handbook 1400.1, which may be found at *http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1289*. This policy is consistent with ACGME standards and quality of care, patient safety, and resident education objectives.

To facilitate billing of VA-delivered resident services, VHA requested and CMS authorized the use of a VA-specific HCPCS II modifier, ''–GR.'' When appended to a CPT–4 code, the ''–GR'' modifier means:

> ''These services were provided in whole or in part by a resident at a VA Medical Center or clinic, supervised in accordance with VA policy.''

For billing and payment purposes, when used on a billing from a VA Medical Center or clinic, the ''–GR'' modifier has the same effect as the ''–GC'' or ''–GE'' modifier when used by the non-VA sector. VA practice, consistent with that of the non-VA sector, is to issue billings in the name of the attending physician.

Please note that when veterans receive VA-funded care in a non-VA medical facility, clinic, or office, VHA policy does permit the use of the ''–GC'' and ''–GE'' modifiers on billings if the modifiers are otherwise appropriate.

Approved: April 4, 2008.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E8–7642 Filed 4–10–08; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 73, No. 71

Friday, April 11, 2008

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–137573–07]

RIN 1545–BH20

Guidance Under Section 1502; Amendment of Matching Rule for Certain Gains on Member Stock

Correction

In proposed rule document E8–4571 beginning on page 12312 in the issue of Friday, March 7, 2008, make the following corrections:

§ 1.1502–13 [Corrected]

1. On page 12313, in the first column, in § 1.1502–13(c)(6)(ii)(C)(1), in the fifth line, ''Register.'' should read ''Register].''.

2. On the same page, in the same column, in § 1.1502–13(c)(6)(ii)(C)(2), in the fifth line, ''Register.'' should read ''Register].''.

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Part II

Department of Labor

Employment and Training Administration
Employment Standards Administration

20 CFR Part 655

Labor Condition Application Requirements for Employers Seeking To Use Nonimmigrants on E–3 Visas in Specialty Occupations; Filing Procedures; Final Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205–AB43

Employment Standards Administration; Labor Condition Application Requirements for Employers Seeking To Use Nonimmigrants on E–3 Visas in Specialty Occupations; Filing Procedures

AGENCIES: Employment and Training Administration and Employment Standards Administration, Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor (the Department or DOL) is publishing this Final Rule to amend its regulations regarding the temporary employment of nonimmigrant foreign professionals in order to implement procedural requirements applicable to the E–3 visa category. This visa classification was established by Title V of the REAL ID Act of 2005 (Division B) in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, and applies to certain Australian nationals coming to the United States solely to perform services in specialty occupations. This Final Rule clarifies the procedures that employers must follow in obtaining a DOL-certified labor condition application before seeking an E–3 visa for a foreign worker.

DATES: *Effective Date:* This final rule is effective on the date of publication and applies to labor condition applications filed on or after that date.

FOR FURTHER INFORMATION: For information regarding the E–3 labor condition application process in 20 CFR part 655, subpart H, contact the Office of Policy Development and Research, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5641, Washington, DC 20210; Telephone: (202) 693–3700 (this is not a toll-free number).

For information regarding the E–3 enforcement process in 20 CFR Part 655, subpart I, contact Diane Koplewski, Immigration Team Leader, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration (ESA), U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–3516, Washington, DC 20210; Telephone: (202) 693–0071 (this is not a toll-free number).

Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

On January 12, 2007, the Department published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) to amend its regulations to include procedures for the newly created E–3 nonimmigrant visa category. 72 FR 1650. Title V of the REAL ID Act of 2005 (Division B) in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Pub. L. 109–13, 501, 119 Stat. 231, 278 (2005)) amended section 101(a)(15)(E) of the Immigration and Nationality Act (Act or INA) (8 U.S.C. 1184 *et seq.*) to add the E–3 nonimmigrant classification for Australian nationals who enter solely to perform services in specialty occupations in the United States. The definition of a specialty occupation for the E–3 visa program is the same as it is for the H–1B visa program. 8 U.S.C. 1184(i)(1); 20 CFR 655.715.

The E–3 visa classification applies only to nationals of the Commonwealth of Australia and is limited to 10,500 initial visas annually. 8 U.S.C. 1184(g)(11)(A) and (B). The sponsoring employer must present a Labor Condition Application (LCA) attesting to the wages and working conditions certified by the Department of Labor to the Department of State (DOS) Consular Officer at the time of the E–3 visa application or the Department of Homeland Security (DHS) at the time of a request for change of status. 8 U.S.C. 1101(a)(15)(E)(iii), 1182(t)(1); *see also* 22 CFR 41.51 and 8 CFR 214.2(e)(21).

As required under the H–1B and H–1B1 programs, the E–3 employer must attest that:

- It is offering to and will pay the nonimmigrant, during the period of authorized employment, wages that are at least the actual wage level paid to other employees with similar experience and qualifications for the specific employment in question, or the prevailing wage level for the occupational classification in the area of intended employment, whichever is greater (based on the best information available at the time of filing the attestation);
- It will provide working conditions for the nonimmigrant that will not adversely affect working conditions for similarly employed workers;
- There is no strike or lockout in the course of a labor dispute in the occupational classification at the worksite; and
- It has provided notice of its filing of a labor attestation to its employees' bargaining representative for the occupational classification affected or, if there is no bargaining representative, has provided notice to its employees in the affected occupational classification by physical posting in a conspicuous location at the worksite or other means such as electronic notification.

As required by the INA in the H–1B and H–1B1 programs, the Department may review E–3 labor attestations only for completeness and obvious inaccuracies. Unless an LCA is incomplete or obviously inaccurate, the Secretary of Labor must certify the E–3 LCA within seven days of filing. INA section 212(t)(2)(C); 8 U.S.C. 1182(t)(2)(C). The maximum period for which an E–3 labor attestation will be certified is two years from the employment start date as indicated on the LCA. An employer must file a new E–3 labor condition application to renew an attestation beyond the initial two-year period.

As with labor condition applications for H–1B and H–1B1 nonimmigrants, the Secretary of Labor must compile a list by employer and occupational classification of all labor attestations filed regarding E–3 nonimmigrants. The list identifies the wage rate, number of foreign professional workers sought, period of intended employment, and date of need for each attestation. INA sec. 212(t)(2)(B); 8 U.S.C. 1182(t)(2)(B). The Department must make the list available for public inspection in Washington, DC.

Enforcement provisions for E–3 labor condition applications are based on the requirements of the H–1B1 visa program. *See* INA section 212(t)(3); 8 U.S.C. 1182(t)(3). The Department will receive, investigate, and make determinations on complaints filed by any aggrieved person or organization regarding the failure of an employer to meet the terms of its attestations. DOL is also authorized to conduct random investigations for a period of up to five years of any employer found by DOL to have committed a willful failure to meet a required attestation or to have made a willful misrepresentation of a material fact in an attestation. 8 U.S.C. 1182(t)(3)(E). Penalties for failure to meet conditions of the E–3 labor attestations are the same as those under the H–1B1 program. Enforcement of E–3 labor attestations is handled by the

Wage and Hour Division, Employment Standards Administration (ESA), of DOL.

III. Comments Received on the NPRM

The Department received one comment on the NPRM. Virtually all of the issues raised in the single email comment received pertained to issues outside the scope of the NPRM or that would require statutory amendments to implement. As a general matter, the Department's authority to regulate is limited to the responsibilities mandated by the statutory provisions. This Final Rule in particular is limited to extending the H–1B visa procedures to E–3 visas for employers seeking temporary entry for nonimmigrant foreign workers in specialty occupations from Australia.

The commenter expressed concern that foreign workers are being allowed to take American jobs. In response, the Department notes that the statute does not require employers who seek to hire foreign workers on E–3 visas to demonstrate that there are no available U.S. workers or to test the labor market for U.S. workers as required under the permanent labor certification program and, in limited circumstances, under the H–1B program. Compare INA sec. 212(t) with INA sec. 212(a)(5)(A) and sec. 212(n); 8 U.S.C. 1182(a)(5)(A), (n), and (t).

IV. Technical Changes to the Rule

In addition to the amendments proposed in the NPRM, this Final Rule makes some technical clarifying amendments to three sections of the rule. The date of publication is inserted in the second sentence of § 655.700(c)(3). The Final Rule also amends the first sentence of the definition of ''specialty occupation'' in § 655.715 and the first sentence in § 655.750(b)(1)(i) to include the E–3 nonimmigrant classification.

In addition, the Final Rule makes technical amendments to further clarify those regulations in 20 CFR part 655 that are common to the E–3, H–1B1, and H–1B programs. Congress made specific provisions for the E–3 visa, as it did for the H–1B1 visa (workers from Singapore and Chile), which differentiate these two visa categories from each other and from the H–1B visa. However, the differences are relatively minor and do not warrant separate subparts for each visa category. Executive Order 12866 mandates that Federal agencies promulgating regulations make them effective, consistent, sensible, and understandable. In reviewing our regulations for the H–1B and the H–1B1, to which the E–3 is being added, we determined that minor changes were warranted to fully comply with the mandate of Executive Order 12866. For the sake of clarity, consistency, and understandability this rule makes technical clarifying changes to 20 CFR part 655 to help stakeholders and others understand which provisions apply to one or both of the H–1B1 and E–3 LCA processes, and which apply only to the H–1B LCA process. Accordingly, the proposed rule is adopted as a Final Rule with the changes stated above.

IV. Administrative Information

Executive Order 12866—Regulatory Planning and Review: We have determined that this rule is not an ''economically significant regulatory action'' within the meaning of Executive Order 12866. The procedures for filing a labor attestation under the new E–3 visa category on behalf of nonimmigrant professionals from Australia will not have an economic impact of $100 million or more. Employers seeking to employ E–3 nonimmigrant professionals will continue to use the same procedures and forms presently required for the H–1B and H–1B1 nonimmigrant programs. E–3 visas for Australians are subject to annual numerical limits. Although this Final Rule is not economically significant as defined by Executive Order 12866, it is a significant rule and has, therefore, been reviewed by the Office of Management and Budget (OMB). This Final Rule is considered otherwise significant because it implements a new program and must be closely coordinated with other Federal agencies that are also responsible for implementing the E–3 program, such as the Departments of State and of Homeland Security in order to avoid any serious inconsistency or otherwise interfere with an action taken or planned by another agency.

Regulatory Flexibility Analysis: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis, describing the anticipated impact of the proposed rule on small entities. This initial analysis was published as part of the NPRM. The initial regulatory flexibility analysis concluded that the proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

The Regulatory Flexibility Act also requires agencies to prepare a final regulatory analysis, assessing comments received on the initial analysis, describing any significant alternatives affecting small entities that were considered in arriving at the Final Rule, and the anticipated impact of the rule on small entities.

The Department received no comments on its initial analysis.

We have notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification under the Regulatory Flexibility Act (RFA) at 5 U.S.C. 605(b), that this Final Rule would not have a significant economic impact on a substantial number of small entities. The changes made by this rule will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

This rule implements statutory provisions enacted by Congress, which narrowly extend the scope of DOL's existing H–1B and H–1B1 programs to include similar labor attestation filing requirements for the temporary entry of nonimmigrant Australian professionals under the new E–3 visa classification. Employers seeking to hire these E–3 nonimmigrant professionals use the same procedures and forms presently required for H–1B and H–1B1 nonimmigrant professionals.

Based on E–3 filing data for fiscal year 2006 (FY 2006), the Department estimates that employers file approximately 2600 labor condition applications annually with the Department under the E–3 program. We do not inquire about the size of employers filing labor condition applications; however, the number of small entities that will file labor condition applications in any given year will be less than the expected total of 2600 applications.

In the absence of collected data, the Department determined a size standard analysis based on 13 CFR part 121 that describes the Small Business Administration (SBA) size standards. To group employers by size, the Department relied on information submitted by each employer on the comparable permanent labor certification application, which provides data on the total number of employees in the area of intended employment for each application. Because the Department does not collect information with respect to the annual receipts of employers, it used standard reported numbers, where available, from the SBA's standards found at 13 CFR 121.201 as the size standard for small businesses in each of those industries in which it could be extrapolated.

In terms of the size standards, although some employers will file multiple labor condition applications for E–3 beneficiaries with the Department in each year, the Department's analysis treated each application as a separate economic impact on each employer and, consequently, the economic impact of this Final Rule may be overstated. Moreover, the Department does not anticipate a significant expansion in filings in this program because the E–3 visa category is subject to an annual numerical limit of 10,500. The Department further relied on the FY 2006 data of the major industries that applied for E–3 temporary visas with the Department to form its analysis, as it does not track the size of any one employer applicant.

To estimate the cost of the Final Rule on small businesses, the Department calculated each employer would likely take one hour to prepare the documentation required for complying with the attestations contained on each application. The cost to prepare the public access file is based on the median hourly wage rate for a Human Resources Manager ($40.47), as published by the U.S. Department of Labor's Occupational Information Network, O*Net (further discussions of the Human Resource Manager positions may be found at *http://online.onetcenter.org/link/summary/11–3049.99*), and increased by a factor of 1.42 to account for employee benefits and other compensation.

The Department determined that the following industries predominate in the E–3 program: (1) Professional, Scientific and Technological Industry (labor condition applications filed for Computer Programmers, Technicians, Information and Support Specialists, Software Engineers, other Engineers, and Systems and Program Analysts); (2) Educational industry (labor condition applications filed for Teachers, Professors, and Tutors); (3) Finance and Insurance industry (labor condition applications filed for Accountants, Business Analysts, Financial Analysts and Investor Analysts); and (4) Healthcare and Social Assistance industry (labor condition applications filed for Medical Residents, Chiropractors, Physical Therapists, Acupuncturists, Dentists, Physicians, Social Workers, etc.). The Department has reviewed the data from each of these industries as described below to determine that there is no significant impact on small businesses.

The U.S. Census Bureau's 2002 Economic Census reported that approximately 602,578 employer establishments were operating year-round in the Professional, Scientific, and Technical Services industries, and that 96.7 percent of those employed less than 50 employees. In FY 2006, 1040 labor condition applications were filed with the Department for E–3 beneficiaries by employers in this category. We estimate that the annual number of employer labor condition applications in this industry that may be impacted by this Final Rule is 1006 at a cost of approximately $57,815.

The U.S. Census Bureau's 2002 Economic Census reported that approximately 38,293 employer establishments were operating year-round in the Educational Services Industry, and 98.9 percent of those employed less than 100 employees. In FY 2006, 43 labor condition applications were filed with the Department for E–3 beneficiaries in the Educational services sector. We estimate the annual number of employer applications in this industry that may be impacted by the Final Rule is 42 at an annual cost of $2,414.

The U.S. Census Bureau's 2002 Economic Census reported that approximately 198,232 employer establishments were operating year-round in the Finance and Insurance industries, and that 32.5% percent of those employed less than 100 employees. In FY 2006, 282 labor condition applications were filed with the Department by employers in this category. We estimate that the annual number of employer applications in this industry that may be impacted by this Final Rule is 92 at an annual cost of approximately $5,287.

The U.S. Census Bureau's 2002 Economic Census reported that approximately 619,517 employer establishments were operating year-round in the Healthcare and Social Assistance Industry, and 93 percent of those employed less than 50 employees. In FY 2006, approximately 135 E–3 LCAs were filed with the Department. We estimate the annual number of employer applications in this industry that may be impacted by the Final Rule is 126 at a cost of $7,241. Therefore, the total cost burden across all industries is $72,757.

These costs are minimal in the nature of both the small business entities that may be affected and the program. Even assuming that all entities who file E–3 labor condition applications are considered to be small businesses, the net economic effect is minimal. DOL accordingly does not believe this final rule will impact a substantial number of small entities. Moreover, the Department of Labor does not believe this final rule will have a significant economic impact on small businesses. The Department does not require employers to submit a filing fee for the E–3 program, which is consistent with past practice. Therefore, under this Final Rule, an employer would submit an E–3 visa application to the Department at no filing cost. An employer will spend the same amount of time preparing and submitting the Form ETA 9035 for the E–3 as it would for the H–1B program for which such employees would otherwise qualify, and this Final Rule establishes no additional economic burden on small entities other than the recordkeeping burden discussed above.

Unfunded Mandates Reform Act of 1995: Title II of the Unfunded Mandates Reform Act of 1996 (2 U.S.C. 1531) directs agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector. This Final Rule has no ''Federal mandate,'' which is defined in 2 U.S.C. 658(6) to include either a ''Federal intergovernmental mandate'' or a ''Federal private sector mandate.'' A Federal mandate is any provision in a regulation that imposes an enforceable duty upon State, local, or tribal governments, or imposes a duty upon the private sector which is not voluntary. A decision by a private entity to obtain an E–3 worker is purely voluntary and is, therefore, excluded from any reporting requirement under the Act.

Small Business Regulatory Enforcement Fairness Act of 1996: The Department was not required to produce a Regulatory Flexibility analysis, therefore, it is also not required to produce any Compliance Guides for Small Entities as mandated by the Small Business Regulatory Enforcement Fairness Act (SBREFA). The Department has similarly concluded that this rule is not a ''major rule'' requiring review by the Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801) because it will not likely result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 13132—Federalism: This Final Rule will not have a substantial direct effect on the States, on the relationship between the Federal

government and the States, nor on the distribution of power and responsibilities among the various levels of government as described by Executive Order 13132. Therefore, the Department has determined that this Final Rule will not have a sufficient federalism implication to warrant the preparation of a summary impact statement.

Assessment of Federal Regulations and Policies on Families: This Final Rule does not affect family well-being.

Paperwork Reduction Act: Forms and information collection requirements related to the Department's E–3, H–1B, and H–1B1 programs under 20 CFR part 655, subpart H, are approved currently under OMB control number 1205–0310 (expiration date November 30, 2008). This Final Rule does not include a substantive or material modification of that collection of information. Existing H–1B/H–1B1 paperwork forms and filing procedures will be used by potential employers of an additional category of foreign temporary workers—nationals from Australia. Because E–3 visas will be subject to annual numerical limits, the Department does not anticipate a substantial increase in filings under 20 CFR part 655, subpart H.

Executive Order 12630: The Department certifies that this Final Rule does not have property taking implications, i.e., eminent domain.

Catalog of Federal Domestic Assistance Number: This program is listed in the *Catalog of Federal Domestic Assistance* at Number 17.273, ''Temporary Labor Certification for Foreign Workers.''

List of Subjects in 20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Australia, Chile, Employment, Forest and forest products, Health professions, Immigration, Labor, Longshore work, Migrant labor, Penalties, Reporting requirements, Singapore, Students, Wages.

Accordingly, 20 CFR part 655, Code of Federal Regulations, is amended as follows:

PART 655—TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

■ 1. The seventh paragraph of the authority citation for part 655 is revised to read as follows:

* * * * *

Subparts H and I issued under 8 U.S.C. 8 U.S.C. 1101(a)(15)(E)(iii), 1101(a)(15)(H)(i)(b) and (b1), 1182(n), 1182(t), and 1184; 29 U.S.C. 49 *et seq.*; sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1182 note); and Title IV, Pub. L. 105–277, 112 Stat. 2681.

* * * * *

■ 2. Revise § 655.0(d) to read as follows:

§ 655.0 Scope and purpose of part.

* * * * *

(d) *Subparts H and I of this part.* Subpart H of this part sets forth the process by which employers can file labor condition applications (LCAs) with, and the requirements for obtaining approval from, the Department of Labor to temporarily employ the following three categories of nonimmigrants in the United States: (1) H–1B visas for temporary employment in specialty occupations or as fashion models of distinguished merit and ability; (2) H–1B1 visas for temporary employment in specialty occupations of nonimmigrant professionals from countries with which the United States has entered into certain agreements identified in section 214(g)(8)(A) of the INA; and (3) E–3 visas for nationals of the Commonwealth of Australia for temporary employment in specialty occupations. Subpart I of this part establishes the enforcement provisions that apply to the H–1B, H–1B1, and E–3 visa programs.

* * * * *

■ 3. Revise the heading of subpart H to read as follows:

Subpart H—Labor Condition Applications and Requirements for Employers Seeking To Employ Nonimmigrants on H–1b Visas in Specialty Occupations and as Fashion Models, and Requirements for Employers Seeking To Employ Nonimmigrants on H–1b1 and E–3 Visas in Specialty Occupations

■ 4. Amend § 655.700 as follows:

■ A. Revise the section heading and introductory text to read as set forth below;

■ B. Revise paragraph (c)(3);

■ C. Add new paragraph (c)(4) to read as set forth below;

■ D. Revise the heading to paragraph (d) to read as set forth below;

■ E. Revise paragraphs (d)(1), (d)(2), and (d)(3) to read as set forth below;

■ F. Revise the header and introductory paragraph of (d)(4), (d)(4)(i) and (d)(4)(ii) to read as set forth below.

The additions and revisions read as follows:

§ 655.700 What statutory provisions govern the employment of H–1B, H–1B1, and E–3 nonimmigrants and how do employers apply for H–1B, H–1B1, and E–3 visas?

Under the E–3 visa program, the Immigration and Nationality Act (INA), as amended, permits certain nonimmigrant treaty aliens to be admitted to the United States solely to perform services in a specialty occupation (INA section 101(a)(15)(E)(iii)). Under the H–1B1 visa program, the INA permits nonimmigrant professionals in specialty occupations from countries with which the United States has entered into certain agreements that are identified in section 214(g)(8)(A) of the INA to temporarily enter the United States for employment in a specialty occupation. Employers seeking to employ nonimmigrant workers in specialty occupations under H–1B, H–1B1, or E–3 visas must file a labor condition application with the Department of Labor as described in § 655.730(c) and (d). Certain procedures described in this subpart H for obtaining a visa and entering the U.S. after the Department of Labor attestation process, including procedures in § 655.705, apply only to H–1B nonimmigrants. The procedures for receiving an E–3 or H–1B1 visa and entering the U.S. on an E–3 or H–1B1 visa after the attestation process is certified by the Department of Labor are identified in the regulations and procedures of the Department of State and the United States Citizenship and Immigration Services (USCIS) of the Department of Homeland Security. Consult the Department of State (*http://www.state.gov/*) and USCIS (*http://www.uscis.gov/*) Web sites and regulations for specific instructions regarding the E–3 and H–1B1 visas.

* * * * *

(c) * * *

(3) *E–3 visas:* Except as provided in paragraph (d) of this section, this subpart H and subpart I of this part apply to all employers seeking to employ foreign workers under the E–3 visa classification in specialty occupations under INA section 101(a)(15)(E)(iii) (8 U.S.C. 1101(a)(15)(E)(iii)). This paragraph (c)(3) applies to labor condition applications filed on or after April 11, 2008. E–3 labor condition applications filed prior to that date but on or after May 11, 2005 (i.e., the effective date of the statute), will be processed according to the E–3 statutory terms and the E–3 processing procedures published on July 19, 2005 in the **Federal Register** at 74 FR 41434.

(4) *H–1B1 visas:* Except as provided in paragraph (d) of this section, subparts H and I of this part apply to all employers

seeking to employ foreign workers under the H–1B1 visa classification in specialty occupations described in INA section 101(a)(15)(H)(i)(b1) (8 U.S.C. 1101(a)(15)(H)(i)(b1)), under the U.S.-Chile and U.S.-Singapore Free Trade Agreements as long as the Agreements are in effect. (INA section 214(g)(8)(A) (8 U.S.C. 1184(g)(8)(A)). This paragraph (c)(4) applies to H–1B1 labor condition applications filed on or after November 23, 2004. Further, H–1B1 labor condition applications filed prior to that date but on or after January 1, 2004, the effective date of the H–1B1 program, will be handled according to the H–1B1 statutory terms and the H–1B1 processing procedures as described in paragraph (d)(3) of this section.

(d) *Nonimmigrants on E–3 or H–1B1 visas.* (1) *Exclusions.* The following sections in this subpart and in subpart I of this part do not apply to E–3 and H–1B1 nonimmigrants, but apply only to H–1B nonimmigrants: §§ 655.700(a), (b), (c)(1) and (2); 655.710(b); 655.730(d)(5) and (e); 655.735; 655.736; 655.737; 655.738; 655.739; 655.760(a)(7), (8), (9), and (10); and 655.805(a)(7), (8), and (9). Further, the following references in subparts H or I of this part, whether in the excluded sections listed above or elsewhere, do not apply to E–3 and H–1B1 nonimmigrants, but apply only to H–1B nonimmigrants: references to fashion models of distinguished merit and ability (H–1B visas, but not H–1B1 and E–3 visas, are available to such fashion models); references to a petition process before USCIS (the petition process applies only to H–1B, but not to initial H–1B1 and E–3 visas unless it is a petition to accord a change of status); references to additional attestation obligations of H–1B-dependent employers and employers found to have willfully violated the H–1B program requirements (these provisions do not apply to the H–1B1 and E–3 programs); and references in § 655.750(a) or elsewhere in this part to the provision in INA section 214(n) (formerly INA section 214(m)) (8 U.S.C. 1184(n)) regarding increased portability of H–1B status (by the statutory terms, the portability provision is inapplicable to H–1B1 and E–3 nonimmigrants).

(2) *Terminology.* For purposes of subparts H and I of this part, except in those sections identified in paragraph (d)(1) of this section as inapplicable to E–3 and H–1B1 nonimmigrants and as otherwise excluded:

(i) The term ''H–1B'' includes ''E–3'' and ''H–1B1'' (INA section 101(a)(15)(E)(iii) and (a)(15)(H)(i)(b1)) (8 U.S.C. 1101(a)(15)(E)(iii) and (a)(15)(H)(i)(b1)); and

(ii) The term ''labor condition application'' or ''LCA'' includes a labor attestation made under section 212(t)(1) of the INA for an E–3 or H–1B1 nonimmigrant professional classified under INA section 101(a)(15)(E)(iii) and (a)(15)(H)(i)(b1) (8 U.S.C. 1101(a)(15)(E)(iii) and (a)(15)(H)(i)(b1)).

(3) *Filing procedures for E–3 and H–1B1 labor attestations.* Employers seeking to employ an E–3 or H–1B1 nonimmigrant must submit a completed ETA Form 9035 or ETA Form 9035E (electronic) to DOL in the manner prescribed in §§ 655.720 and 655.730. Employers must indicate on the form whether the labor condition application is for an ''E–3 Australia,'' ''H–1B1 Chile,'' or ''H–1B1 Singapore'' nonimmigrant. Any changes in the procedures and instructions for submitting labor condition applications will be provided in a notice published in the **Federal Register** and posted on the ETA Web site at *http://www.foreignlaborcert.doleta.gov/.*

(4) *Employer's responsibilities regarding E–3 and H–1B1 labor attestation.* Each employer seeking an E–3 or H–1B1 nonimmigrant in a specialty occupation has several responsibilities, as described more fully in subparts H and I of this part, including the following:

(i) By submitting a signed and completed LCA, the employer makes certain representations and agrees to several attestations regarding the employer's responsibilities, including the wages, working conditions, and benefits to be provided to the E–3 or H–1B1 nonimmigrant. These attestations are specifically identified and incorporated in the LCA, and are fully described on Form ETA 9035CP (cover pages).

(ii) The employer reaffirms its acceptance of all of the attestation obligations by transmitting the certified labor attestation to the nonimmigrant, the Department of State, and/or the USCIS according to the procedures of those agencies.

* * * * *

■ 5. Amend § 655.705 as follows:

■ A. Remove the first three sentences of paragraph (b) and add two new sentences to read as set forth below;

■ B. Revise the first three sentences of paragraph (b) to read as set forth below;

■ C. Add two new sentences at the end of paragraph (b) to read as set forth below; and

■ D. Amend the introductory language of paragraph (c) by removing the phrase ''employer's responsibilities under the H–1B1 program are found at § 655.700(d)(4)'' and adding in its place the phrase ''employer's responsibilities under the H–1B1 and E–3 programs are found at § 655.700(d)(4).''

The additions and revisions read as follows:

§ 655.705 What Federal agencies are involved in the H–1B, H–1B1, and E–3 programs, and what are the responsibilities of those agencies and of employers?

* * * * *

(b) * * * The Department of State, through U.S. Embassies and Consulates, is responsible for issuing H–1B, H–1B1, and E–3 visas. For H–1B visas, the following agencies are involved: DHS accepts the employer's petition (DHS Form I–129) with the DOL-certified LCA attached. * * * DOL and DOS are involved in the process relating to the initial issuance of H–1B1 and E–3 visas. DHS is involved in change of status and extension of stays for the H–1B1 and E–3 category.

* * * * *

■ 6. Amend § 655.715 as follows:

■ A. Revise the definition of *Employer* to read as set forth below;

■ B. Revise the introductory text of the definition of *Place of Employment* to read as set forth below;

■ C. Revise the first sentence of paragraph (2) under *Required Wage Rate* to read as set forth below; and

■ D. Revise the first sentence in paragraph (1) of *Specialty Occupation,* to read as set forth below:

The additions and revisions read as follows:

§ 655.715 Definitions.

* * * * *

Employer means a person, firm, corporation, contractor, or other association or organization in the United States that has an employment relationship with H–1B, H–1B1, or E–3 nonimmigrants and/or U.S. worker(s). In the case of an H–1B nonimmigrant (not including E–3 and H–1B1 nonimmigrants), the person, firm, contractor, or other association or organization in the United States that files a petition with the United States Citizenship and Immigration Services (USCIS) of the Department of Homeland Security (DHS) on behalf of the nonimmigrant is deemed to be the employer of that nonimmigrant. In the case of an E–3 and H–1B1 nonimmigrant, the person, firm, contractor, or other association or organization in the United States that files an LCA with the Department of Labor on behalf of the nonimmigrant is deemed to be the employer of that nonimmigrant.

* * * * *

Place of employment means the worksite or physical location where the work actually is performed by the H–1B, H–1B1, or E–3 nonimmigrant.

* * * * *

Required wage rate

* * * * *

(2) The prevailing wage rate (determined as of the time of filing the LCA application) for the occupation in which the H–1B, H–1B1, or E–3 nonimmigrant is to be employed in the geographic area of intended employment. * * *

* * * * *

Specialty Occupation

(1) For purposes of the E–3 and H–1B programs (but not the H–1B1 program), *specialty occupation* means an occupation that requires theoretical and practical application of a body of specialized knowledge, and attainment of a bachelor's or higher degree (or its equivalent) in the specific specialty as a minimum for entry into the occupation in the United States. * * *

* * * * *

■ 7. Amend § 655.720(a) by revising the first sentence to read as follows:

§ 655.720 Where are labor condition applications (LCAs) to be filed and processed?

(a) Employers must file all LCAs regarding H–1B, H–1B1, and E–3 nonimmigrants through the electronic submission procedure identified in paragraph (b) of this section except as provided in the next sentence. * * *

* * * * *

■ 8. Amend § 655.730 as follows:

■ A. Revise the introductory paragraph before paragraph (a) to read as set forth below;

■ B. Revise the parenthetical phrase in paragraph (c)(4)(vii) to read as set forth below;

■ C. Revise the last sentence in paragraph (c)(5) to read as set forth below; and

■ D. Revise the first parenthetical phrase in paragraph (d)(5) to read as set forth below.

The additions and revisions read as follows:

§ 655.730 What is the process for filing a labor condition application?

This section applies to the filing of labor condition applications for H–1B, H–1B1, and E–3 nonimmigrants. The term H–1B is meant to apply to all three categories unless exceptions are specifically noted.

* * * * *

(c) * * *

(4) * * *

(vii) * * * (and not applications regarding H–1B1 and E–3 nonimmigrants) * * *

(5) * * * Separate LCAs must be filed for H–1B, H–1B1, and E–3 nonimmigrants.

(d) * * *

(5) * * * (and not applications regarding H–1B1 or E–3 nonimmigrants) * * *

■ 9. Amend § 655.731 by adding a sentence at the end of the introductory paragraph to read as follows:

§ 655.731 What is the first LCA requirement, regarding wages?

* * * For the purposes of this section, ''H–1B'' includes ''E–3 and H–1B1'' as well.

* * * * *

■ 10. Amend § 655.732 by adding a sentence at the end of the introductory paragraph to read as follows:

§ 655.732 What is the second LCA requirement, regarding working conditions?

* * * For the purposes of this section, ''H–1B'' includes ''E–3 and H–1B1'' as well.

* * * * *

■ 11. Amend § 655.733 by adding a sentence at the end of the introductory paragraph to read as follows:

§ 655.733 What is the third LCA requirement, regarding strikes and lockouts?

* * * For the purposes of this section, ''H–1B'' includes ''E–3 and H–1B1'' as well.

* * * * *

■ 12. Amend § 655.734 by adding a sentence at the end of the introductory paragraph to read as follows:

§ 655.734 What is the fourth LCA requirement, regarding notice?

* * * For the purposes of this section, ''H–1B'' includes ''E–3 and H–1B1'' as well.

* * * * *

■ 13. Amend § 655.735 by adding an introductory paragraph to read as follows:

§ 655.735 What are the special provisions for short-term placement of H–1B nonimmigrants at place(s) of employment outside the area(s) of intended employment listed on the LCA?

This section does not apply to E–3 and H–1B1 nonimmigrants.

* * * * *

■ 14. Amend § 655.740(a)(2)(ii) by removing the phrase ''disqualified from employing H–1B nonimmigrants under section 212(n)(2) of the INA or from employing H–1B1 nonimmigrants under 212(t)(3) of the INA'' and adding in its place the phrase ''disqualified from employing H–1B nonimmigrants under section 212(n)(2) of the INA (8 U.S.C. 1182(n)(2)) or from employing H–1B1 or E–3 nonimmigrants under section 212(t)(3) of the INA (8 U.S.C. 1182(t)(3)).''

■ 15. Amend § 655.750 as follows:

■ A. Revise paragraph (a) to read as set forth below;

■ B. Revise paragraph (b)(1)(i) to read as set forth below;

■ C. Revise paragraph (b)(2) to read as set forth below.

The additions and revisions read as follows:

§ 655.750 What is the validity period of the labor condition application?

(a) *Validity of certified labor condition applications.* A labor condition application (LCA) certified under § 655.740 is valid for the period of employment indicated by the authorized DOL official on Form ETA 9035E or ETA 9035. The validity period of an LCA will not begin before the application is certified. If the approved LCA is the initial LCA issued for the nonimmigrant, the period of authorized employment must not exceed 3 years for an LCA issued on behalf of an H–1B or H–1B1 nonimmigrant and must not exceed 2 years for an LCA issued on behalf of an E–3 nonimmigrant. If the approved LCA is for an extension of an H–1B1 it must not exceed two years. The period of authorized employment in the aggregate is based on the first date of employment and ends:

(1) In the case of an H–1B or initial H–1B1 LCA, on the latest date indicated or three years after the employment start date under the LCA, whichever comes first; or

(2) In the case of an E–3 or an H–1B1 extension LCA, on the latest date indicated or two years after the employment start date under the LCA, whichever comes first.

(b) * * *

(1) * * *

(i) H–1B, H–1B1, and E–3 nonimmigrants are not employed at the place of employment pursuant to the LCA; and

* * * * *

(2) Requests for withdrawals must be in writing and must be sent to ETA, Office of Foreign Labor Certification. ETA will publish the mailing address, and any future mailing address changes, in the **Federal Register**, and will also post the address on the DOL Web site at *http://www.foreignlaborcert.doleta.gov/*.

* * * * *

■ 16. Amend § 655.760 by adding an introductory paragraph to read as follows:

§ 655.760 What records are to be made available to the public, and what records are to be retained?

Paragraphs (a)(1) thru (a)(6) and paragraphs (b) and (c) of this section also apply to the H–1B1 and E–3 visa categories.

* * * * *

■ 17. Revise the heading of subpart I to read as follows:

Subpart I—Enforcement of H–1B Labor Condition Applications and H–1B1 and E–3 Labor Attestations

* * * * *

Signed in Washington, DC, this 1st day of April 2008.

Brent R. Orrell,

Acting Assistant Secretary, Employment and Training Administration.

Alexander J. Passantino,

Acting Administrator, Wage and Hour Division, Employment Standards Administration.

[FR Doc. E8–7563 Filed 4–10–08; 8:45 am]

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Federal Register

Friday,
April 11, 2008

Part III

The President

Proclamation 8234—National Former Prisoner of War Recognition Day, 2008

Proclamation 8235—National D.A.R.E. Day, 2008

Memorandum of March 28, 2008—Assignment of Functions Under Section 1821(c) of the Implementing Recommendations of the 9/11 Commission Act of 2007

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 8234 of April 8, 2008

National Former Prisoner of War Recognition Day, 2008

By the President of the United States of America

A Proclamation

America is blessed to have brave men and women willing to step forward to defend our freedoms and keep us safe. The members of the United States Armed Forces have proudly held fast against determined and ruthless enemies, protected our citizens from harm, and freed millions from oppression. On National Former Prisoner of War Recognition Day, we pay tribute to the courageous and selfless individuals who were taken captive while serving the cause of peace and securing liberty across the globe.

America's former prisoners of war set an example of vision, valor, and unshakeable love of country that inspires our citizens. Through unspeakable conditions, they upheld their oath to defend America with honor and dignity. Their extraordinary spirit, patriotism, and resolve helped defeat tyranny and build democratic and just societies, enabling decent men and women around the world to live in freedom.

Our Nation is extremely proud of our former prisoners of war, and we owe them and their families a debt we can never fully repay. On National Former Prisoner of War Recognition Day, we honor our country's heroes who were prisoners of war, recognize their sacrifice, and express our deepest gratitude to those who helped write a more hopeful chapter in our history.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 9, 2008, as National Former Prisoner of War Recognition Day. I call upon the people of the United States to join me in honoring the service and sacrifices of all of America's former prisoners of war. I call upon Federal, State, and local government officials and private organizations to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 08–1123
Filed 4–10–08; 8:58 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 8235 of April 9, 2008

National D.A.R.E. Day, 2008

By the President of the United States of America

A Proclamation

For 25 years, Drug Abuse Resistance Education (D.A.R.E.) has given school children across America an opportunity to gain the skills they need to avoid involvement in drugs, gangs, and violence. On National D.A.R.E. Day, we recognize those individuals who teach America's children how to resist peer pressure and live productive, drug-free, and violence-free lives.

Millions of our Nation's young people have learned about the dangerous effects of drug abuse with the help of the D.A.R.E. program. Parents, law enforcement officials, teachers, and counselors are on the front lines of this effort and are sending our kids a clear message that drug use is dangerous and unacceptable. In classrooms across the country, police officers are answering students' tough questions about drugs and crime and encouraging an open line of communication between students and law enforcement.

My Administration is committed to reducing drug use among young people, and we are working to cut the supply of drugs coming into our country and fight demand here at home. Additionally, we are helping spread the message of drug prevention through the National Youth Anti-Drug Media Campaign and the Partnership for a Drug-Free America. The Helping America's Youth initiative, led by First Lady Laura Bush, is working with community leaders to address challenges facing young people on a daily basis. These and other efforts are helping to combat the destructive cycle of drug addiction.

All Americans have a responsibility to encourage others to turn away from drug abuse and to make good choices in life. During National D.A.R.E. Day, we renew our commitment to providing our youth the knowledge and encouragement they need to resist the pressures that can lead them to experiment with drugs and violent activities. By working together, we can help our children build lives of purpose and strengthen our communities, one heart and one soul at a time.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 10, 2008, as National D.A.R.E. Day. I urge all young people to make right choices and call upon all Americans to recognize our collective responsibility to combat every form of drug abuse and to support all those who work to help our children avoid drug use and violence.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 08–1124
Filed 4–10–08; 8:58 am]
Billing code 3195–01–P

Presidential Documents

Memorandum of March 28, 2008

Assignment of Functions Under Section 1821(c) of the Implementing Recommendations of the 9/11 Commission Act of 2007

Memorandum for the Secretary of State

By virtue of the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby assign to you the functions of the President under section 1821(c) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53).

In the performance of your responsibility under this memorandum, you shall, as appropriate, consult the heads of other departments and agencies.

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

THE WHITE HOUSE,
Washington, March 28, 2008.

[FR Doc. 08–1125
Filed 4–10–08; 8:58 am]
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Agusta S.p.a. Model A109E and A119 Helicopters; comments due by 4-18-08; published 3-19-08 [FR E8-05495]
ATR Model ATR42 200, 300, 320, 500 Airplanes; and Model ATR72 101, 201, 102, 202, 211, 212, and 212A Airplanes; comments due by 4-14-08; published 3-13-08 [FR E8-05003]
BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes; comments due by 4-14-08; published 3-13-08 [FR E8-05000]
Boeing Model 747 400, 747 400D, and 747 400F Series Airplanes; comments due by 4-14-08; published 3-13-08 [FR E8-05013]
Dassault Model Falcon 2000 Airplanes; comments due by 4-14-08; published 3-13-08 [FR E8-04999]
Dassault Model Falcon 2000EX Airplanes; comments due by 4-14-08; published 3-13-08 [FR E8-05006]
Dassault Model Falcon 2000EX and 900EX Airplanes; comments due by 4-17-08; published 3-18-08 [FR E8-05371]
Dassault Model Mystere Falcon 20 C5, 20 D5, and 20 E5 Airplanes; comments due by 4-14-08; published 3-13-08 [FR E8-05016]
Dornier Model 328 100 Airplanes; comments due by 4-14-08; published 3-13-08 [FR E8-04996]
Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB etc.; comments due by 4-14-08; published 3-13-08 [FR E8-05002]
Gulfstream Aerospace LP Model Astra SPX and 1125 Westwind Astra Airplanes and Gulfstream 100 Airplanes; comments due by 4-14-08; published 3-14-08 [FR E8-05147]
Gulfstream Aerospace LP Model Galaxy Airplanes and Gulfstream 200 Airplanes; comments due by 4-14-08; published 3-13-08 [FR E8-05015]
Pilatus Aircraft Ltd. Models PC-12, PC-12/45, and PC-12/47 Airplanes; comments due by 4-14-08; published 3-13-08 [FR E8-05008]
Short Brothers Model SD3-60 Airplanes; comments due by 4-14-08; published 2-29-08 [FR E8-03825]
Establishment of Class D Airspace:
San Bernardino International Airport, San Bernardino, CA; comments due by 4-14-08; published 3-14-08 [FR E8-04941]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 1593/P.L. 110–199

Second Chance Act of 2007: Community Safety Through Recidivism Prevention (Apr. 9, 2008; 122 Stat. 657)

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