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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 220

[FNS–2007–0032]

RIN 0584–AD58

Fluid Milk Substitutions in the School Nutrition Programs

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Final rule.

SUMMARY: This final rule implements a legislative provision on milk substitutes that is consistent with current regulations on menu exceptions for students with disabilities and adds requirements for the optional substitution of nondairy beverage for fluid milk for children with medical or special dietary needs in the National School Lunch Program and the School Breakfast Program. Specifically, this final rule establishes nutrient standards for nondairy beverage alternatives to fluid milk, allows schools to accept a written substitution request from a parent or legal guardian, grants schools discretion to select the acceptable nondairy beverages, and continues to make school food authorities responsible for substitution expenses that exceed the Federal reimbursement. This rule ensures consistency of standards among milk substitutes offered in the school lunch and breakfast programs, and assures that students who consume nondairy beverage alternates receive important nutrients found in fluid milk.

DATES: *Effective Date:* October 14, 2008.

FOR FURTHER INFORMATION CONTACT: William Wagoner or Marisol Benesch, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service at (703) 305–2590.

SUPPLEMENTARY INFORMATION:

I. Background

National School Lunch Program (NSLP) substitution regulations at 7 CFR 210.10(g) on meal variations require school food authorities (SFAs) to make food substitutions for children whose disabilities restrict their diet and give school food authorities discretion to make food substitutions for students with medical or other special dietary needs which do not constitute disabilities. Current regulations at 7 CFR 210.10(g) require that substitution requests be supported by a statement signed by a physician in the case of a student with a disability or by a recognized medical authority in the case of a student who is not disabled. The substitution regulations in the NSLP also apply to the School Breakfast Program (SBP) as a result of the requirements in 7 CFR 220.8(d) on meal variations.

Section 102 of the Child Nutrition and WIC Reauthorization Act of 2004 (Pub. L. 108–265; June 30, 2004) amended section 9(a)(2) of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1758 (a)(2), to include provisions consistent with the above substitution regulations and to add requirements for the optional substitution of fluid milk for students with medical or other special dietary needs. Public Law 108–265 amended section 9(a)(2)(B)(i) to require that fluid milk substitutes be fortified with calcium, protein, vitamin A, and vitamin D to levels found in fluid milk, and authorized the Secretary to specify additional nutrients. As amended, section 9(a)(2)(B)(ii) allows SFAs to accept a written statement from a parent or legal guardian identifying the student's medical or special dietary needs, in lieu of a written statement from a recognized medical authority. The provision also allows SFAs to select the acceptable substitutes that meet the nutritional standards established by the Secretary. Furthermore, Public Law 108–265 requires that SFAs notify the State agency of the decision to offer fluid milk substitutes other than for students with a disability, and requires SFAs to pay for substitution expenses that exceed Federal reimbursements.

The Food and Nutrition Service (FNS) published a proposed rule on November 9, 2006 (71 FR 65753) seeking to establish nutrient standards for the milk substitutes and the other requirements established by Public Law 108–265, as indicated above. The proposed rule was intended to accommodate individual students age two and older who are unable to consume cow's milk due to a medical or other special dietary need, but who do not have a disability as defined in 7 CFR 15b.3. Specifically, schools are required to provide milk substitutes for children who have a disability which substantially limits one or more life activities, and would be affected by the consumption of dairy milk, such as diabetes. However, schools are also given the option of providing milk substitutes for children with milk allergies, religious or ethical beliefs or other needs that preclude the consumption of milk but do not constitute a medical disability.

The proposed rule would have required that nondairy beverages be fortified with calcium, protein, vitamin A, and vitamin D, as stipulated by Public Law 108–265. Based on existing nutrition research, FNS proposed that nondairy beverages be fortified with riboflavin, vitamin B–12, magnesium, phosphorus and potassium, in addition to the nutrients stipulated by the Act. The proposed rule specified nutrient levels to ensure that a cup of a milk substitute is nutritionally equivalent to a cup of fluid cow's milk.

II. Discussion of Public Comments

FNS received 107 comments on the proposal from associations (including dairy councils) (18), food companies (2), school districts (66), State and local agencies (16), and individuals (5). The comment period began November 9, 2006 and ended January 8, 2007. The response to various aspects of the proposal was mixed, as indicated in the following summary of public comments:

- *Nutrient Standards for Fluid Milk Substitutes*

FNS proposed that nondairy fluid milk substitutes be fortified with calcium, protein, vitamins A and D, riboflavin, vitamin B-12, magnesium, phosphorus, and potassium to the levels found in whole milk (3.25% milkfat). Whole milk was used as a benchmark for all nutrients (except vitamins A and D) because, based on the USDA Nutrient Database for Dietary Studies 1.0, it provides the lowest levels of several nutrients. The proposed levels for vitamins A and D reflect the milk fortification levels specified by the Food and Drug Administration.

The dairy councils supported the proposed nutrient standards for fluid milk substitutes. However, some dairy councils were concerned that fortified nondairy beverages may not provide the same health benefits as fluid milk because added nutrients settle in the bottom of beverage containers. A student would need to shake the beverage container vigorously prior to consumption to ensure full delivery of nutrients. The dairy councils recommended that FNS encourage SFAs to offer lactose-free milk, in place of nondairy beverages, for lactose-intolerant individuals, as recommended by the 2005 ''Dietary Guidelines for Americans.''

Manufacturers of fortified milk substitutes are responsible for labeling their products with important consumer information. SFAs should ask the beverage manufacturer for special instructions and other product information, such as nutrient content, storage instructions, and expiration date.

FNS wishes to emphasize that lactose-free milk is currently allowed as part of the reimbursable school meal pursuant to 7 CFR 210.10 and SFAs may offer it to children who have lactose intolerance without requiring documentation. There is no need to offer a fortified milk substitute to a student whose medical or special dietary need is lactose intolerance.

Food companies and associations representing the soy industry commented that no product currently on the market meets the proposed nutrient standards. They were concerned that product reformulation may increase costs and discourage the use of soy beverages as fluid milk substitutes. To encourage product availability, the commenters suggested that the proposed protein standard be reduced to 6.25 g of protein per 8 ounce serving and that the proposed potassium standard be reduced to 250 mg per 8 ounce serving. This change would allow SFAs to use soy beverages currently on the market as acceptable fluid milk substitutes. A medical association noted that protein consumption among children is already high and recommended that the proposed protein standard be reduced to 5 g per serving.

An association stated that nutritional standards for the nondairy milk substitutes should be based on critical nutrients such as calcium, vitamin A, and vitamin D. The commenter said that more recent data is needed to justify establishing requirements for protein, magnesium, potassium, phosphorus, riboflavin, and vitamin B-12.

Public Law 108–265 required that milk substitutes be fortified with calcium, protein, vitamin A, and vitamin D to levels found in fluid milk. It also authorized the Secretary to specify other nutrients in addition to those required statutorily. Recognizing that fluid milk is the primary food source of riboflavin, vitamin B-12, magnesium, phosphorus, and potassium for children, FNS proposed to extend the nutrient requirements to also include these additional vitamins and minerals. Requiring magnesium and potassium also supports the 2005 ''Dietary Guidelines for Americans,'' which identifies these as nutrients of concern for children. Fortification with vitamin E, another nutrient of concern for children, was not proposed because fluid milk is not their primary food source of vitamin E. FNS anticipates that products that meet all of the proposed nutrient standards will become available in response to SFA demand.

FNS recognizes that some SFAs may need assistance to select acceptable products. We expect that the State Agencies will provide technical assistance to program operators that choose to offer nondairy milk substitutes for students with medical or other special dietary needs.

In light of the childhood overweight/obesity trend, a commenter stated that low-fat fluid milk should be used as the benchmark for the proposed nutrient standards, rather than whole milk (3.25% milkfat). It was also recommended that USDA set a maximum limit on the allowable energy-bearing nutrients, such as total fats and sugars, in the substitute beverages.

The Department used whole milk as a benchmark for nutrient standards because it provides the lowest levels of the proposed nutrients in comparison with other types of milk. This is consistent with the NSLP requirement at 7 CFR 210.10(b)(1) that school meals provide at least minimum nutrient levels that meet one-third of the nutritional needs of students. This approach is intended to facilitate an SFA's compliance with the nutrient requirements.

The Department refrained from limiting the fats and sugars in individual milk substitutes because this would be inconsistent with the current NLSP requirement in 7 CFR 210.10(a)(1)(i) to analyze the nutrients provided by the reimbursable meal (rather than individual food items) on average over the course of the week. In addition, regulatory action does not seem warranted because potential milk substitutes in the market (e.g., typical chocolate-flavored, soy-based beverage) already provide a level of energy, total fat, saturated fat, and total sugars that is below the levels contained in some of the types of milk currently allowed in the NSLP, such as chocolate-flavored whole milk. It also seems unreasonable to establish a regulatory maximum level for sugars in fluid milk substitutes when one does not exist for fluid milk. The Department recommends, but does not require, that schools use the profile of unflavored milk with respect to calories, fats, and sugars as the guide for evaluating fluid milk substitutes. We also recommend that schools do not offer nondairy beverages that exceed the fats and sugar levels found in chocolate-flavored whole milk. The trans fats in milk substitutes should be minimal, as recommended by the 2005 ''Dietary Guidelines for Americans.''

The lack of a mechanism to validate the actual nutrient content of a fluid milk substitute was also a concern for the dairy industry and school districts. Some commenters argued that school districts should not be expected to evaluate the nutritional value of milk substitutes, and recommended that FNS take on that responsibility and issue a list of products that meet the required nutrient levels. Another commenter recommended that the Department issue information on fluid milk substitutes whose nutritional content has been verified by independent laboratories.

Public Law 108–265 does not reflect the intent for FNS to assume responsibility for evaluating the nutrient content of milk substitutes or endorse specific products. School food authorities are responsible for the overall food service operation, including evaluating and purchasing food products that are acceptable for the NSLP and SBP. SFAs may seek assistance from their State Agency to evaluate the nutrient content of fluid milk substitutes.

• *Written Statement from a Student's Parent or Legal Guardian*

In conformance with Public Law 108–265, FNS proposed to allow an SFA to accept a milk substitution request by written statement from a recognized medical authority or from the student's parent or legal guardian. As stated in the law, the substitution request by written statement must identify the student's medical or other special dietary need. FNS proposed that the written statement remain in effect until the parent or legal guardian revokes such statement or until the school discontinues the milk substitution option.

School districts in general opposed allowing a parent or legal guardian's

statement in lieu of a statement from a recognized medical authority. They expressed concern that a parent or legal guardian's statement may not be fact-based and may simply reflect a student's preference. SFAs believe that the requests from parents could create a financial burden for the foodservice operation. They argue that only recognized medical authorities should be allowed to request fluid milk substitutions for children with medical or special dietary needs.

Several associations and businesses were pleased that Congress simplified the process for requesting fluid milk substitutes for children with medical or special dietary needs. A commenter stated that the parent or legal guardian's written statement should include contact information for the physician who is treating the student's medical or special dietary need.

Section 102 of Public Law 108–265 specifies that parents and legal guardians may request milk substitutions and did not require or expect SFAs to verify the medical or other special dietary need listed on the parent's statement. Consequently, FNS is not adopting the recommendation to require contact information.

A commenter misunderstood the proposed regulatory language on meal variations and suggested revisions to allow a school to accept a parent or legal guardian's written statement. A correction is not necessary because the proposed regulatory text refers to meal variations, not to the fluid milk substitutions that may be requested by parents or legal guardians as allowed by Public Law 108–265.

• *State Agency Notification*

In accordance with Public Law 108–265, FNS proposed to require that an SFA notify the State Agency of a decision to offer fluid milk substitutes other than for children with a disability. Commenters did not see the value of such notification and stated that this information is already available through program reviews.

FNS has no discretion in the implementation of this statutory requirement established in section 102 of Public Law 108–265. This notification can be accomplished through electronic mail or other easy method specified by the State Agency. This notification requirement does not involve reporting data to FNS.

• *Expenses Related to Fluid Milk Substitutions*

Public Law 108–265 requires that SFAs pay for substitution expenses that exceed the Federal reimbursement. School districts are concerned that this requirement may have a detrimental impact on school food service operations. A commenter expressed concern about the lack of a regulatory provision to pass the cost of providing fluid milk substitutes on to the student requesting the accommodation. Another commenter recommended that FNS stipulate that SFAs do not have to offer a substitute beverage if the cost of the product exceeds the cost of an 8 ounce serving of fluid milk.

Offering fluid milk substitutions for children with medical or other special dietary needs is discretionary and cost implications may be a valid reason for an SFA not to exercise this option. SFAs should assess their ability to absorb fluid milk substitution costs that exceed the Federal reimbursement. An SFA may not charge a higher price for an individual school meal to cover the cost of providing a fluid milk substitute.

• *Selection of Acceptable Fluid Milk Substitutes by Schools*

The proposed rule would have allowed SFAs discretion to select acceptable nondairy beverages, as required by Public Law 108–265. One commenter expressed concern that a parent or legal guardian may request a particular product brand and also that a student may decline the acceptable nondairy beverage(s) selected by an SFA.

An SFA that chooses to offer fluid milk substitutes has discretion to offer a variety of brands or to offer a specific brand name. An SFA may want to confirm with the household requesting milk substitution that the student intends to consume daily the nondairy beverage selected by the SFA.

• *Clarification of the Term ''Other Special Dietary Needs''*

Several commenters requested clarification of the term ''other special dietary needs.'' Congress did not specify the conditions or situations that would merit fluid milk substitution. While the proposed rule was intended to provide accommodation in limited cases where medical or other special dietary needs preclude the consumption of cow's milk, such as a milk allergy or other physiological (but non-disabling) need, we realize that implementation of the proposal will result in requests for fluid milk substitutions based on ethnic/cultural, ethical, or religious reasons as well. If a school opts to offer fluid milk substitutes to non-disabled students under this provision, they will need to provide equal accommodations to students with a wide range of other dietary needs related to fluid milk substitution.

Currently, NSLP schools have flexibility to offer a variety of foods to meet the medical or special dietary needs of students without disabilities. For example, the food-based meal patterns allow the use of many different meat/meat alternates such as cheese, dry beans, nuts, and alternate protein products. The nutrient-standard menu planning option allows even greater flexibility since specific foods are not required. Fluid milk is the only required food or menu item which SFAs have not been able to substitute without a supporting statement from a medical authority or a physician. This final rule simplifies the process of requesting fluid milk substitution for students without disabilities if the SFA opts to offer substitution to these students.

FNS emphasizes that this final rule is not intended to accommodate students who do not drink cow's milk due to taste preferences. The school meal programs already offer fluid milk in a variety of fat content and flavors to satisfy the taste preferences of students.

This final rule does not impact the meal variations for ethnic and religious reasons currently allowed in 7 CFR 210.10(g) and 7 CFR 220.8(d) to benefit an entire institution, such as a faith-based school. However, this final rule amends these provisions to add the milk substitution requirements while ensuring the nutritional integrity of school meals.

III. Conclusion

This final rule will amend 7 CFR 210.10(g) and 7 CFR 220.8(d) to reorganize the existing meal variation requirements according to disability and non-disability reasons, and to add a paragraph on fluid milk substitutions for non-disability reasons. The revisions and additions will:

• Continue the current requirements on meal variations for students with disabilities and for students with medical or other special dietary needs;

• Allow SFAs discretion to offer fluid milk substitutes to students with medical or other special dietary needs that do not rise to the level of a disability;

• Require that nondairy beverages offered as fluid milk substitutes be nutritionally equivalent to fluid milk and provide specific levels of calcium, protein, vitamins A and D, magnesium, phosphorus, potassium, riboflavin, and vitamin B-12;

• Allow SFAs to accept a written statement from a parent or guardian in lieu of a statement from a recognized medical authority. The supporting statement must identify the student's medical or other special dietary need that precludes cow's milk;

• Allow SFAs discretion to select the acceptable substitutes that meet the

nutritional standards established by this rule;

- Require SFAs to inform the State agency when a school chooses to offer fluid milk substitutes other than for students with a disability; and
- Require SFAs to pay for substitution expenses that exceed Federal meal reimbursements.

The regulatory text in this final rule differs slightly from the proposed rule. A few edits were made to enhance readability and clarity of the regulatory requirements. In 7 CFR 210.10(g) and 7 CFR 220.8(d), four sentences were edited to be consistent with current regulatory text. In addition, a table was added to list the required nutrients for fluid milk substitutes. The same nutrients were listed in a paragraph format in the proposed rule. A few sentences were reorganized to allow us to insert the new table.

IV. Procedural Matters

Executive Order 12866

This rule has been determined to be significant and was reviewed by the Office of Management and Budget in conformance with Executive Order 12866.

Regulatory Impact Analysis

Need for Action

This action is needed to establish nutrition standards and other requirements for the optional substitution of a nondairy beverage for fluid milk for students with medical or other special dietary needs in the National School Lunch Program (NSLP) and School Breakfast Program (SBP), as required by Public Law 108–265.

Benefits

This rule ensures that the nondairy milk substitutes used in the school meal programs are nutritionally equivalent to fluid milk, and achieves consistency among the milk substitutes offered by schools. It also makes it easier for parents/legal guardians to request milk substitutions for students with medical or special dietary needs, while retaining a school's discretion to offer substitutes for students without disabilities and to select the acceptable products.

Costs

The Regulatory Impact Analysis provides examples of an upper bound range of potential costs to the schools under varying assumptions. In order to give a range of potential costs, two variations of two different scenarios are analyzed, reflecting variations in participant behavior in response to the rule. These cost estimates all take into account projected average daily participation, inflation of soy beverage prices, the number of school days in a year, a school meal take rate, and a four year phase-in period. The first-year estimated costs for schools range from about $510,000 (an average of $5 per school) to just under $2 million (an average of $19 per school); the five-year costs range from almost $8 million (an average of $79 per school) to almost $31 million (an average of $303 per school). The range of costs represents a departure from the point estimate provided for the proposed rule. These new estimates provide more information and use a more conservative approach in estimating the costs.

The cost scenarios are more likely to overstate (rather than understate) potential costs for two reasons. First, the assumptions made about participant behavior in response to this rule are meant to portray relatively high potential additional costs to schools. Second, the estimates assume that all schools choose to offer a fluid milk substitute. In reality, little cost is anticipated because offering milk substitutes for children without disabilities is completely optional for schools.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Nancy Montanez Johner, Under Secretary for Food, Nutrition, and Consumer Services, has certified that this rule will not have a significant economic impact on a substantial number of small entities. Schools have discretion to offer milk substitutes for students without disabilities and only a small number of schools are expected to initially offer this option once a suitable product becomes available. As more products are developed and more communities become aware of these products we expect that more schools will adopt this option.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, the Department generally must prepare a written statement, including a cost/benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that impose costs on State, local, or tribal governments or to the private sector of $100 million or more in any one year. This rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The NSLP is listed in the Catalog of Federal Domestic Assistance under No. 10.555 and the SBP is listed under No. 10.553. For the reasons set forth in the final rule in 7 CFR part 3015, Subpart V and related Notice [48 FR 29115, June 24, 1983], these Programs are included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Since the NSLP and SBP are State-administered, federally funded programs, FNS headquarters staff and regional offices have ongoing formal and informal discussions with State and local officials regarding program implementation and policy issues. This arrangement allows State and local agencies to provide feedback that forms the basis for any discretionary decisions made in this and other rules.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement, for inclusion in the preamble to the regulations, describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132. FNS has considered the impact of this rule on State and local governments and has determined that this rule does not have Federalism implications. This rule would not impose substantial or direct compliance costs on State and local governments. Therefore, under Section 6(b) of the Executive Order, a federalism summary impact statement is not required.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have

preemptive effect with respect to any State or local laws, regulations, or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures under § 210.18(q) or § 235.11(f) must be exhausted.

Civil Rights Impact Analysis

FNS has reviewed this final rule in accordance with the Department Regulation 4300–4, ''Civil Rights Impact Analysis,'' to identify any major civil rights impacts the rule might have on children on the basis of age, race, color, national origin, sex or disability. After a careful review of the rule's intent and provisions, FNS has determined that it does not affect the participation of protected individuals in the NSLP and SBP.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. The recordkeeping and reporting burden contained in this rule is approved under OMB No. 0584–0006. This final rule does not contain any new information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1995.

E-Government Act Compliance

The Food and Nutrition Service 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.

List of Subjects

7 CFR Part 210

Grant programs—education, Grant programs—health, Infants and children, Nutrition, Penalties, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

7 CFR Part 220

Grant programs—education, Grant programs—health, Infants and children, Nutrition, Reporting and recordkeeping requirements, School breakfast and lunch programs.

■ Accordingly, the Food and Nutrition Service amends 7 CFR Parts 210 and 220 as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

■ 1. The authority citation for 7 CFR part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

■ 2. In § 210.10:

■ a. Revise the heading for paragraph (g);

■ b. Revise paragraph (g)(1);

■ c. Redesignate paragraphs (g)(2) and (g)(3) as paragraphs (g)(3) and (g)(4), respectively, and add a new paragraph (g)(2); and

■ d. Redesignate paragraph (m)(3) as paragraph (m)(4) and add a new paragraph (m)(3).

The revisions and additions read as follows:

§ 210.10 Nutrition standards and menu planning approaches for lunches and requirements for afterschool snacks.

* * * * *

(g) *Exceptions and variations allowed in reimbursable meals*—(1) *Exceptions for disability reasons.* Schools must make substitutions in lunches and afterschool snacks for students who are considered to have a disability under 7 CFR 15b.3 and whose disability restricts their diet. Substitutions must be made on a case by case basis only when supported by a written statement of the need for substitutions that includes recommended alternate foods, unless otherwise exempted by FNS. Such statement must be signed by a licensed physician.

(2) *Exceptions for non-disability reasons.* Schools may make substitutions for students without disabilities who cannot consume the regular lunch or afterschool snack because of medical or other special dietary needs. Substitutions must be made on a case by case basis only when supported by a written statement of the need for substitutions that includes recommended alternate foods, unless otherwise exempted by FNS. Except with respect to substitutions for fluid milk, such a statement must be signed by a recognized medical authority.

(i) *Milk substitutions for non-disability reasons.* Schools may make substitutions for fluid milk for non-disabled students who cannot consume fluid milk due to medical or special dietary needs. A school that selects this option may offer the nondairy beverage(s) of its choice, provided the beverage(s) meets the nutritional standards established under paragraph (m) of this section. Expenses incurred when providing substitutions for fluid milk that exceed program reimbursements must be paid by the school food authority.

(ii) *Requisites for milk substitutions.* (A) A school food authority must inform the State agency if any of its schools choose to offer fluid milk substitutes other than for students with disabilities; and

(B) A medical authority or the student's parent or legal guardian must submit a written request for a fluid milk substitute identifying the medical or other special dietary need that restricts the student's diet.

(iii) *Substitution approval.* The approval for fluid milk substitution must remain in effect until the medical authority or the student's parent or legal guardian revokes such request in writing, or until such time as the school changes its substitution policy for non-disabled students.

* * * * *

(m) * * *

(3) *Milk substitutes.* If a school chooses to offer one or more substitutes for fluid milk for non-disabled students with medical or special dietary needs, the nondairy beverage(s) must provide the nutrients listed in the following table. Milk substitutes must be fortified in accordance with fortification guidelines issued by the Food and Drug Administration. A school need only offer the nondairy beverage(s) that it has identified as allowable fluid milk substitutes according to this paragraph (m)(3).

Nutrient	Per cup
Calcium	276 mg.
Protein	8 g.
Vitamin A	500 IU.
Vitamin D	100 IU.
Magnesium	24 mg.
Phosphorus	222 mg.
Potassium	349 mg.
Riboflavin	0.44 mg.
Vitamin B-12	1.1 mcg.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

■ 1. The authority citation for 7 CFR part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

■ 2. In § 220.8:

■ a. Revise the section heading;

■ b. Revise the heading for paragraph (d);

■ c. Revise paragraph (d)(1);

■ d. Redesignate paragraphs (d)(2) and (d)(3) as paragraphs (d)(3) and (d)(4), respectively, and add a new paragraph (d)(2); and

■ e. Add a new paragraph (i)(3).

The revisions and additions read as follows:

§ 220.8 Nutrition standards and menu planning approaches for breakfasts.

* * * * *

(d) *Exceptions and variations allowed in reimbursable breakfasts*—(1) *Exceptions for disability reasons.* Schools must make substitutions in breakfasts for students who are considered to have a disability under 7 CFR part 15b.3 and whose disability restricts their diet. Substitutions must be made on a case by case basis only when supported by a written statement of the need for substitutions that includes recommended alternate foods, unless otherwise exempted by FNS. Such statement must be signed by a licensed physician.

(2) *Exceptions for non-disability reasons.* Schools may make substitutions for students without disabilities who cannot consume the breakfast because of medical or other special dietary needs. Substitutions must be made on a case by case basis only when supported by a written statement of the need for substitutions that includes recommended alternate foods, unless otherwise exempted by FNS. Except with respect to substitutions for fluid milk, such statement must be signed by a recognized medical authority.

(i) *Milk substitutions for non-disability reasons.* Schools may make substitutions for fluid milk for non-disabled students who cannot consume fluid milk due to medical or special dietary needs. A school that selects this option may offer the nondairy beverage(s) of its choice, provided the beverage(s) meet the nutritional standards established in paragraph (i)(3) of this section. Expenses incurred in providing substitutions for fluid milk that exceed program reimbursements must be paid by the school food authority.

(ii) *Requisites for milk substitutions.* (A) A school food authority must inform the State agency if any of its schools choose to offer fluid milk substitutes other than for students with disabilities; and

(B) A medical authority or the student's parent or legal guardian must submit a written request for a fluid milk substitute, identifying the medical or other special dietary need that restricts the student's diet.

(iii) *Substitution approval.* The approval for fluid milk substitution must remain in effect until the medical authority or the student's parent or legal guardian revokes such request in writing, or until such time as the school changes its substitution policy for non-disabled students.

* * * * *

(i) * * *

(3) *Milk substitutes.* If a school chooses to offer one or more substitutes for fluid milk for non-disabled students with medical or special dietary needs, the nondairy beverage(s) must provide the nutrients listed in the following table. Milk substitutes must be fortified in accordance with fortification guidelines issued by the Food and Drug Administration. A school need only offer the nondairy beverage(s) that it has identified as allowable fluid milk substitutes according to this paragraph (i)(3).

Nutrient	Per cup
Calcium	276 mg.
Protein	8 g.
Vitamin A	500 IU.
Vitamin D	100 IU.
Magnesium	24 mg.
Phosphorus	222 mg.
Potassium	349 mg.
Riboflavin	0.44 mg.
Vitamin B-12	1.1 mcg.

* * * * *

Dated: September 3, 2008.

Nancy Montanez Johner,

Under Secretary, Food, Nutrition, and Consumer Services.

[FR Doc. E8–21293 Filed 9–11–08; 8:45 am]

BILLING CODE 3410–30–P

FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Regulation CC; Docket No. R–1326]

Availability of Funds and Collection of Checks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; technical amendment.

SUMMARY: The Board of Governors (Board) is amending appendix A of Regulation CC to delete the reference to the Jacksonville branch office of the Federal Reserve Bank of Atlanta and to reassign the Federal Reserve routing symbols currently listed under that office to the head office of the Federal Reserve Bank of Atlanta. These amendments reflect the restructuring of check-processing operations within the Federal Reserve System.

DATES: The final rule will become effective on November 15, 2008.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. H. Yeganeh, Financial Services Manager (202–728–5801), or Joseph P. Baressi, Financial Services Project Leader (202–452–3959), Division of Reserve Bank Operations and Payment Systems; or Sophia H. Allison, Senior Counsel (202–452–3565), Legal Division. For users of Telecommunications Devices for the Deaf (TDD) only, contact 202–263–4869.

SUPPLEMENTARY INFORMATION: Regulation CC establishes the maximum period a depositary bank may wait between receiving a deposit and making the deposited funds available for withdrawal.[1] A depositary bank generally must provide faster availability for funds deposited by a ''local check'' than by a ''nonlocal check.'' A check is considered local if it is payable by or at or through a bank located in the same Federal Reserve check-processing region as the depositary bank.

Appendix A to Regulation CC contains a routing number guide that assists banks in identifying local and nonlocal banks and thereby determining the maximum permissible hold periods for most deposited checks. The appendix includes a list of each Federal Reserve check-processing office and the first four digits of the routing number, known as the Federal Reserve routing symbol, of each bank that is served by that office for check-processing purposes. Banks whose Federal Reserve routing symbols are grouped under the same office are in the same check-processing region and thus are local to one another.

On November 15, 2008, the Reserve Banks will transfer the check-processing operations of the Jacksonville branch office of the Federal Reserve Bank of Atlanta to the head office of the Federal Reserve Bank of Atlanta. As a result of this change, some checks that are drawn on and deposited at banks located in the Jacksonville and Atlanta check-processing regions and that currently are nonlocal checks will become local checks subject to faster availability schedules. To assist banks in identifying local and nonlocal checks and making funds availability decisions, the Board is amending the list of routing symbols in appendix A associated with the Federal Reserve Bank of Atlanta to

[1] For purposes of Regulation CC, the term ''bank'' refers to any depository institution, including commercial banks, savings institutions, and credit unions.

reflect the transfer of check-processing operations from the Jacksonville branch office to the head office of the Federal Reserve Bank of Atlanta. To coincide with the effective date of the underlying check-processing changes, the amendments to appendix A are effective November 15, 2008. The Board is providing notice of the amendments at this time to give affected banks ample time to make any needed processing changes. Early notice also will enable affected banks to amend their availability schedules and related disclosures if necessary and provide their customers with notice of these changes.[2]

Administrative Procedure Act

The Board has not followed the provisions of 5 U.S.C. 553(b) relating to notice and public participation in connection with the adoption of the final rule. The revisions to appendix A are technical in nature and are required by the statutory and regulatory definitions of ''check-processing region.'' Because there is no substantive change on which to seek public input, the Board has determined that the section 553(b) notice and comment procedures are unnecessary. In addition, the underlying consolidation of Federal Reserve Bank check-processing offices involves a matter relating to agency management, which is exempt from notice and comment procedures.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed the final rule under authority delegated to the Board by the Office of Management and Budget. The technical amendment to appendix A of Regulation CC will delete the reference to the Jacksonville branch office of the Federal Reserve Bank of Atlanta and reassign the routing symbols listed under that office to the head office of the Federal Reserve Bank of Atlanta. The depository institutions that are located in the affected check-processing regions and that include the routing numbers in their disclosure statements would be required to notify customers of the resulting change in availability under § 229.18(e). However, all paperwork collection procedures associated with Regulation CC already are in place, and the Board accordingly anticipates that no additional burden will be imposed as a result of this rulemaking.

List of Subjects in 12 CFR Part 229

Banks, Banking, Reporting and recordkeeping requirements.

Authority and Issuance

■ For the reasons set forth in the preamble, the Board is amending 12 CFR part 229 to read as follows:

PART 229—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (REGULATION CC)

■ 1. The authority citation for part 229 continues to read as follows:

Authority: 12 U.S.C. 4001–4010, 12 U.S.C. 5001–5018.

■ 2. The Sixth District routing symbol list in appendix A is revised to read as follows:

Appendix A to Part 229—Routing Number Guide to Next-Day Availability Checks and Local Checks

* * * * *

Sixth Federal Reserve District

[Federal Reserve Bank of Atlanta]

Head Office

0610	2610
0611	2611
0612	2612
0613	2613
0620	2620
0621	2621
0622	2622
0630	2630
0631	2631
0632	2632
0640	2640
0641	2641
0642	2642
0650	2650
0651	2651
0652	2652
0653	2653
0654	2654
0655	2655
0660	2660
0670	2670
0820	2820
0829	2829
0840	2840
0841	2841
0842	2842
0843	2843

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, September 8, 2008.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E8–21089 Filed 9–11–08; 8:45 am]

BILLING CODE 6210–01–P

[2] Section 229.18(e) of Regulation CC requires that banks notify account holders who are consumers within 30 days after implementing a change that improves the availability of funds.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0967; Directorate Identifier 2008–NM–152–AD; Amendment 39–15671; AD 2008–19–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 and –300 Series Airplanes Equipped With Rolls-Royce Model RB211–TRENT 800 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 777–200 and –300 series airplanes. This AD requires revising the airplane flight manual to include in-flight procedures for pilots to follow in certain cold weather conditions and requires fuel circulation procedures on the ground when certain conditions exist. This AD results from a report of uncommanded reduction in thrust on both engines because of reduced fuel flows. We are issuing this AD to prevent ice from accumulating in the main tank fuel feed system, which, when released, could result in a restriction in the engine fuel system. Such a restriction could result in failure to achieve a commanded thrust, and consequent forced landing of the airplane.

DATES: This AD is effective September 29, 2008.

We must receive comments on this AD by November 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 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: Margaret Langsted, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6500; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

On January 17, 2008, a Boeing Model 777–200 series airplane equipped with Rolls-Royce Model RB211 TRENT 895–17 turbofan engines crash landed short of the runway at London Heathrow Airport. During final approach, the autothrottles commanded an increase in thrust from both engines, and the engines initially responded. However, at a height of about 720 feet above the ground, the thrust of the right engine reduced, and approximately seven seconds later, the thrust on the left engine reduced. The uncommanded reduction in thrust on both engines was the result of reduced fuel flows. The engine control system detected the reduced fuel flows and commanded increased thrust. However, there was no appreciable change in the fuel flow to either engine, and the airplane crash landed short of the runway.

The investigation determined that over a long period of low power fuel flows and low fuel temperatures associated with cruise flight, ice can accumulate in the main tank fuel feed system and then release as a result of increased fuel flow when high thrust is commanded. When released, the ice could create a restriction within the engine fuel system. A restriction in the engine fuel system, if not corrected, could result in failure to achieve a commanded thrust, and consequent forced landing of the airplane.

All of the testing and research of this accident has been conducted on Boeing Model 777–200 and –300 series airplanes, equipped with Rolls-Royce Model RB211–TRENT 800 series engines. Initial review of 777 other airplane engine combinations has not revealed the same vulnerability to the identified unsafe condition.

FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the(se) same type design(s). This AD requires revising the Limitations section of the airplane flight manual to include procedures for pilots to follow in certain cold weather conditions and requires fuel circulation procedures on the ground when certain conditions exist.

Paragraph (g) of the AD requires that the fuel circulation procedures be accomplished by a certified mechanic. We are including this requirement because of the complexity of the procedure. We recognize that persons other than mechanics who are properly trained might also be capable of accomplishing this procedure. Therefore, we would be receptive to requests for approval of alternative methods of compliance in accordance with paragraph (j) of the AD to allow others to accomplish the procedure if the request includes training and oversight provisions to ensure that the procedure is accomplished properly.

Interim Action

We consider this proposed AD interim action. If final action is later identified, we might consider further rulemaking then.

FAA's Justification and Determination of the Effective Date

Hazardous amounts of ice might accumulate within the main tank fuel feed system under certain conditions, which, when released, could result in a restriction in the engine fuel system. Such a restriction could result in failure to achieve a commanded thrust, and consequent forced landing of the airplane. We have determined that the loss of engine thrust was likely due to ice accumulating in the main tank fuel feed system during long exposure to cold fuel temperatures and low power fuel flows. It is necessary to issue interim mitigating actions in order to prevent an additional accident. Because of our requirement to promote safe flight of civil aircraft and thus, the critical need to assure the proper functioning of the main tank fuel feed system and the short compliance time involved with this action, this AD must be issued immediately.

Because an unsafe condition exists that requires the immediate adoption of this AD, we find that notice and opportunity for prior public comment hereon are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0967; Directorate Identifier 2008–NM–152–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–19–04 Boeing: Amendment 39–15671. Docket No. FAA–2008–0967; Directorate Identifier 2008–NM–152–AD.

Effective Date

(a) This airworthiness directive (AD) is effective September 29, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 777–200 and –300 series airplanes, certificated in any category; equipped with Rolls-Royce Model RB211–TRENT 800 series engines.

Unsafe Condition

(d) This AD results from a report of the uncommanded reduction in thrust on both engines because of reduced fuel flows. We are issuing this AD to prevent ice from accumulating in the main tank fuel feed system, which, when released, could result in a restriction in the engine fuel system. Such a restriction could result in failure to achieve a commanded thrust, and consequent forced landing of the airplane.

Compliance

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

Airplane Flight Manual (AFM) Revision

(f) Within 10 days after the effective date of this AD, revise the Limitations section of the AFM to include the following statement. This may be done by inserting a copy of this AD in the AFM.

''On ground, after refueling, check fuel temperature if fuel temperature indication is operative. If fuel temperature is colder than 0 degrees C or if fuel temperature indication is inoperative, verify that a record exists certifying that the approved fuel circulation procedure was performed.

''Perform all step climbs using VNAV or maximum climb thrust.

''In flight, within 3 hours of top of descent, but not less than 15 minutes before top of descent, check fuel temperature. If fuel temperature is colder than −10 degrees C, perform a step climb using maximum climb thrust. If a step climb using maximum climb thrust cannot be accomplished, verify cruise speed is set to 0.84 Mach or less, and manually advance thrust levers to maximum (autothrottles may be overridden). After reaching maximum climb thrust, hold for 10 seconds or until reaching 0.86 Mach, whichever occurs first. Check engines to ensure they have achieved maximum climb thrust and operate normally.''

Fuel Circulation Procedure

(g) As of 10 days after the effective date of this AD: If the fuel temperature has not exceeded 0 degrees Celsius during the ground turn, before further flight, using the main tank fuel boost pumps, pump fuel through the fuel manifold using the high flow mode for a minimum of one minute. A certified mechanic must do the fuel circulation procedure required by this paragraph using a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA.

(h) Before further flight after accomplishing the action required by paragraph (g) of this AD, make a record in which the person accomplishing the procedure certifies that it was accomplished in accordance with the approved method, and provide the record to the flightcrew. 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 contained in this AD and has assigned OMB Control Number 2120–0056.

Special Flight Permit

(i) Special flight permits, as described in section 21.197 and section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Seattle ACO, FAA, ATTN: Margaret Langsted, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6500; fax (425) 917–6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Material Incorporated by Reference

(k) None.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–21138 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0091; Directorate Identifier 2007–NM–311–AD; Amendment 39–15666; AD 2008–18–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 747 airplanes. This AD requires modification of the refuel valve control unit for the reserve fuel tanks. This AD also requires a revision to the FAA-approved maintenance program to incorporate airworthiness limitation (AWL) No. 28–AWL–20 or AWL No. 28–AWL–25, as applicable. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent lightning-induced electrical energy from entering a reserve fuel tank through the refuel valve, which could result in a fuel tank explosion and consequent loss of the airplane.

DATES: This AD is effective October 17, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 17, 2008.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD

docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6501; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 747 airplanes. That NPRM was published in the **Federal Register** on January 31, 2008 (73 FR 5770). That NPRM proposed to require modification of the refuel valve control unit for the reserve fuel tanks. That NPRM also proposed to require a revision to the FAA-approved maintenance program to incorporate airworthiness limitation (AWL) No. 28–AWL–20 or AWL No. 28–AWL–25, as applicable.

Actions Since NPRM Was Issued

On April 28, 2008, we issued AD 2008–10–07, amendment 39–15513 (73 FR 25977, May 8, 2008), applicable to certain Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes. That AD requires revising the FAA-approved maintenance program by incorporating new AWLs for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 (''SFAR 88'') requirements. That AD also requires the initial inspection of certain repetitive AWL inspections to phase in those inspections, and repair if necessary. As an optional action, that AD also allows incorporating AWL No. 28–AWL–20 into the FAA-approved maintenance program. Therefore, we have added a new paragraph (i) to this AD, which states that incorporating AWL No. 28–AWL–20 into the FAA-approved maintenance program in accordance with paragraph (g) of AD 2008–10–07 terminates the action required by paragraph (g)(1) of this AD, for the applicable airplanes.

On April 28, 2008, we issued AD 2008–10–06, amendment 39–15512 (73 FR 25990, May 8, 2008), applicable to certain Boeing Model 747–400, 747–400D, and 747–400F series airplanes. That AD requires revising the FAA-approved maintenance program by incorporating new AWLs for fuel tank systems to satisfy SFAR 88 requirements. That AD also requires the initial inspection of certain repetitive AWL inspections to phase in those inspections, and repair if necessary. As an optional action, that AD also allows incorporating AWL No. 28–AWL–25 into the FAA-approved maintenance program. Therefore, we have added a new paragraph (j) to this AD, which states that incorporating AWL No. 28–AWL–25 into the FAA-approved maintenance program in accordance with paragraph (g)(3) of AD 2008–10–06 terminates the action required by paragraph (g)(2) of this AD, for the applicable airplanes.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received from the four commenters.

Request To Allow Use of Future Revisions to the Service Bulletin

Boeing and Japan Airlines (JAL) request that we revise paragraph (f) of the NPRM to specify that the proposed modification may also be done in accordance with any future approved revisions to Boeing Alert Service Bulletin 747–28A2291. As justification, Boeing states that the service bulletin could be revised by the time we issue this AD. JAL states that, during validation of the original issue of the service bulletin, Boeing found minor discrepancies with the service bulletin, which Boeing will correct in the next revision to the service bulletin.

We disagree with revising paragraph (f) of this AD, since Boeing has not issued a revision to the service bulletin. If the service bulletin is revised after issuance of this AD, we might consider approving the revised service bulletin as an alternative method of compliance (AMOC). Further, we have removed all references to the use of a ''later revision'' of the applicable service information from paragraphs (g)(1) and (g)(2) of this AD to be consistent with FAA policies and Office of the Federal Register regulations. We may consider approving the use of later revisions of the service information as an AMOC with this AD, as provided by paragraph (k) of this AD.

Request To Revise Paragraph (g)

KLM Royal Dutch Airlines (KLM) states that the intent of paragraph (g) of the NPRM is to maintain the design features introduced in accordance with Boeing Alert Service Bulletin 747–28A2291, dated September 27, 2007, when the reserve tank fueling valve controller is removed and replaced. KLM thinks that it is clearer if paragraph (g) of the NPRM states that the critical design configuration control limitations (CDCCLs) must be incorporated into the applicable paragraphs of the aircraft maintenance manual (AMM) to maintain these design features.

We infer that KLM requests that we revise paragraphs (g)(1) and (g)(2) of this AD as proposed above. We disagree because it is insufficient to only update the AMM with CDCCL notes. CDCCLs are airworthiness limitations. This AD requires revising an operator's FAA-approved maintenance program to include the new CDCCL, but it does not require specific changes to the AMM. We have not changed this AD in this regard.

Request To Extend Compliance Time

Lufthansa requests that we extend the compliance time from 60 months to 72 months for accomplishing the proposed modification. Lufthansa states that this extension will allow operators to implement the modification at the next maintenance layover.

We do not agree with Lufthansa's request to extend the compliance time. The operator provides no technical justification for revising the compliance time. In developing an appropriate compliance time for this AD, we considered the urgency associated with the subject unsafe condition and the practical aspect of accomplishing the required modification on the 747 fleet in a timely manner. Also, the modification requires less than 7 work hours, which may be done as separate work packages during regular maintenance. However, according to the provisions of paragraph (k) of this AD, we may approve requests to adjust the compliance time if the request includes data that prove that the new compliance time would provide an acceptable level of safety. No change to this AD is necessary in this regard.

Other Change Made to This AD

For standardization purposes, we have added a new paragraph (h) to this AD to specify that no alternative CDCCLs may be used unless they are approved as an AMOC. Inclusion of this paragraph in the AD is intended to ensure that the AD-mandated airworthiness limitations changes are treated the same as the airworthiness limitations issued with the original type certificate.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects about 300 airplanes of U.S. registry. The following table provides the estimated costs, at an average labor rate of $80 per hour, for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per product	Fleet cost
Modification	Up to 7	Up to $286	Up to $846	Up to $253,800.
Maintenance program revision	1	None	$80	$24,000.

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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–18–09 Boeing: Amendment 39–15666. Docket No. FAA–2008–0091; Directorate Identifier 2007–NM–311–AD.

Effective Date

(a) This airworthiness directive (AD) is effective October 17, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747–28A2291, dated September 27, 2007.

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

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent lightning-induced electrical energy from entering a reserve fuel tank through the refuel valve, which could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

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

Modification

(f) Within 60 months after the effective date of this AD, modify the refuel valve control unit for the reserve fuel tanks, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 747–28A2291, dated September 27, 2007.

Maintenance Program Revision

(g) Concurrently with accomplishing the modification required by paragraph (f) of this AD, revise the FAA-approved maintenance program by incorporating the information specified in paragraph (g)(1) or (g)(2) of this AD, as applicable.

(1) For Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes: Incorporate AWL No. 28–AWL–20 of Section D of the Boeing 747–100/200/300/SP Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–13747–CMR, Revision January 2007, into the FAA-approved maintenance program.

(2) For Model 747–400, 747–400D, and 747–400F series airplanes: Incorporate AWL No. 28–AWL–25 of Subsection D of the Boeing 747–400 Maintenance Planning Data (MPD) Document, D621U400–9, Section 9, Revision 24, dated June 2006, into the FAA-approved maintenance program.

No Alternative Critical Design Configuration Control Limitations (CDCCLs)

(h) After accomplishing the applicable action specified in paragraph (g) of this AD, no alternative CDCCLs may be used unless the CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (k) of this AD.

Terminating Action for Maintenance Program Revision

(i) For Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes: Incorporating AWL No. 28–AWL–20 into the FAA-approved maintenance program in accordance with paragraph (g) of AD 2008–10–07, amendment 39–15513, terminates the action required by paragraph (g)(1) of this AD.

(j) For Model 747–400, 747–400D, and 747–400F series airplanes: Incorporating AWL No. 28–AWL–25 into the FAA-approved maintenance program in accordance with paragraph (g)(3) of AD 2008–10–06, amendment 39–15512, terminates the action required by paragraph (g)(2) of this AD.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Seattle ACO, FAA, ATTN: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6501; fax (425) 917–6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Material Incorporated by Reference

(l) You must use the service information contained in Table 1 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

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

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

(3) You may review copies of the service information that is incorporated by reference at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

TABLE 1—MATERIAL INCORPORATED BY REFERENCE

Service information	Revision	Date
Boeing Alert Service Bulletin 747–28A2291	Original	September 27, 2007.
Boeing 747–100/200/300/SP Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–13747–CMR.	January 2007	January 2007.
Boeing 747–400 Maintenance Planning Data (MPD) Document, D621U400–9, Section 9	24	June 2006.

Issued in Renton, Washington, on August 25, 2008.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–20364 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0416; Directorate Identifier 2007–NM–297–AD; Amendment 39–15656; AD 2008–17–18]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ Airplanes

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

ACTION: Final rule.

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

It has been found the occurrence of cable guard pins not installed in the aileron control system, which may lead to jamming of the aileron control cables, reducing the aircraft controllability.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective October 17, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 17, 2008.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on April 29, 2008 (73 FR 23132). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

It has been found the occurrence of cable guard pins not installed in the aileron control system, which may lead to jamming of the aileron control cables, reducing the aircraft controllability.

The corrective actions include inspecting for possible absence of the cable guard pins in the aileron control system inside the wings, and installing new ones bearing the same part number. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the single comment received.

Request To Withdraw the NPRM

EMBRAER requests that the NPRM be withdrawn. The commenter states that the missing aileron cable guard was discovered during a normal C-check and that there is no field report of any event caused by the missing pin. EMBRAER

states that it tested the system on ground under severe conditions and it operated normally. The commenter states that it is not clear that the lack of guard pins leads directly to the aileron jamming, and if the aileron system jammed on one side, then the aircraft can be safely operated by disconnecting the aileron system and using the free side; if both sides jammed, the aircraft can be controlled using rudder and differential thrust. For these reasons, EMBRAER proposes that the NPRM be withdrawn.

We do not agree with the commenter's request to withdraw the NPRM. The cable guard is an airworthiness requirement for transport category airplanes (reference section 25.689(b) of the Federal Aviation Regulations). We have determined that an unsafe condition exists due to risk associated with jamming of both ailerons at the same time. We have coordinated this action with the Agência Nacional de Aviação Civil (ANAC), the airworthiness authority for Brazil, which issued Brazilian airworthiness directive 2006–07–01, effective July 31, 2006, (the ''MCAI'') to address the subject condition. The actions in the AD are necessary to address the unsafe condition; therefore, we have not changed the final rule in this regard.

Change to Format of This Final Rule

We changed the format of paragraph (f) of this AD and its subparagraphs to comply with formatting guidelines from the Office of the Federal Register.

We have also added a reference to EMBRAER Service Bulletin 145LEG–27–0023, dated January 24, 2006, to paragraph (f) of this AD and clarified that all actions required by this AD are to be done in accordance with the Accomplishment Instructions of the service bulletin.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the 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 required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect about 13 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $2,080, 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

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

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

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

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

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 the NPRM, 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–17–18 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–15656. Docket No. FAA–2008–0416; Directorate Identifier 2007–NM–297–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 17, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model EMB–135BJ airplanes, certificated in any category, serial numbers 145363, 145412, 145462, 145484, 145495, 145505, 145516, 145528, 145540, 145549, 145555, 145586, 145591, 145625, 145637, 145642, 145644, 145678, 145686, 145699, 145706, 145711, 145717, 145730, 145770, 145775, 145780, 145789, 145796, 14500802, and 14500809.

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 the occurrence of cable guard pins not installed in the aileron control system, which may lead to jamming of the aileron control cables, reducing the aircraft controllability.

The corrective actions include inspecting for possible absence of the cable guard pins in the aileron control system inside the wings, and installing new ones bearing the same part number.

Actions and Compliance

(f) Unless already done: Within 270 calendar days after the effective date of this AD, do a detailed inspection with the aid of a borescope for possible absence of the cable guard pins in the aileron control system inside the wings, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG–27–0023, dated January 24, 2006.

(1) If any cable guard pin having part number (P/N) NAS427K8, NAS427K28, or NAS427K36 is missing in the internal part of the left and right halfwing spar boxes, before further flight, install a new one bearing the same part number, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG–27–0023, dated January 24, 2006.

(2) If any cable guard pin P/N NAS427K26 is missing in the aileron control cable pulleys in the internal part of the wing leading edge III, before further flight, remove the corresponding leading edge and install a new cable guard pin bearing the same part number, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG–27–0023, dated January 24, 2006.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows:

The MCAI includes airplanes in addition to those specified in the applicability of this AD. Those airplanes are not included in this AD because they are modified by Supplemental Type Certificates (STCs) that are not FAA-approved. This AD includes only the U.S. certified airplanes identified in the referenced service information.

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: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1405; 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 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, 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 Directive 2006–07–01, effective July 31, 2006; and EMBRAER Service Bulletin 145LEG–27–0023, dated January 24, 2006; for related information.

Material Incorporated by Reference

(i) You must use EMBRAER Service Bulletin 145LEG–27–0023, dated January 24, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil.

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

Issued in Renton, Washington, on August 12, 2008.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–19384 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2008–0628; Airspace Docket No. 07–ASW–15]

RIN 2120–AA66

Revision of Restricted Area 5107A; White Sands Missile Range, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This action delays the effective date for the revision of Restricted Area R–5107A, and the establishment of R–5107K, White Sands Missile Range, NM, until November 20, 2008. The FAA is taking this action to meet the required charting cutoff date necessary to insure the appropriate en route aeronautical charts display these restricted areas coincidental with the effective date.

DATES: *Effective Date:* 0901 UTC, November 20, 2008.

FOR FURTHER INFORMATION CONTACT: Kelly Neubecker, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On August 20, 2008, the FAA published in the **Federal Register** a final rule revising restricted area R–5107A, and establishing R–5107K, White Sands Missile Range, NM (73 FR 49090). This rule was originally scheduled to become effective September 25, 2008; however, the charting cutoff date required to be met to ensure charting coincidental with that effective date was missed. To meet the required charting cutoff date, and ensure restricted areas R–5107A and R–5107K are displayed on the appropriate en route charts coincidental with their effective date, the effective date is being slipped to November 20, 2008.

Delay of Effective Date

The effective date of the final rule, Docket FAA–2008–0627; Airspace Docket 07–ASW–15, as published in the **Federal Register** on August 20, 2008 (73 FR 49090), is hereby delayed until November 20, 2008.

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

Issued in Washington, DC, on September 2, 2008.

Edith V. Parish,

Manager, Airspace and Rules Group.

[FR Doc. E8–21182 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 256

[Docket ID: MMS–2007–OMM–0064]

RIN 1010–AD44

Bonus or Royalty Credits for Relinquishing Certain Leases Offshore Florida

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This final rule amends regulations for oil and gas leases on the Outer Continental Shelf to implement a mandate in the Gulf of Mexico Energy Security Act of 2006. These amendments (1) provide a credit to lessees who relinquish certain eligible leases in the Gulf of Mexico; (2) define eligible leases as those within 125 miles of the Florida coast in the Eastern Planning Area, and certain leases within 100 miles of the Florida coast in the Central Planning Area; and (3) allow lessees to use the credits in lieu of monetary payment for either a lease bonus bid or royalty due on oil and gas production from most other leases in the Gulf of Mexico, or to transfer the credits to other Gulf of Mexico lessees for their use.

DATES: *Effective Date:* This final rule becomes effective on October 14, 2008.

FOR FURTHER INFORMATION CONTACT: Marshall Rose, Chief, Economics Division, at (703) 787–1536.

SUPPLEMENTARY INFORMATION:

Background and Summary of the Rule

On February 1, 2008, MMS published a proposed rule in the **Federal Register** (73 FR 6073) to implement section 104(c) of the Gulf of Mexico Energy Security Act of 2006 (GOMESA), Public Law 109–432. Section 104(c) of that statute authorizes the Secretary of the Interior (Secretary) to issue a bonus or royalty credit for the exchange of certain leases located offshore of the State of Florida. The statute defines leases eligible for the credit as those in existence on the enactment date of the GOMESA and located both within specified Outer Continental Shelf (OCS) planning areas and distances from the Florida coastline. The statute sets the size of the credit as equal to the bonus and rental paid for the relinquished eligible lease, and limits its use to payments by lessees of bonuses and royalties for leases in the Gulf of Mexico (GOM) not subject to revenue sharing under section 8(g) of the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1337(g)). Finally, the statute mandates creation of a regulatory process for notifying the Secretary of a lessee's decision to exchange a lease for a credit, issuing the credit, allocating the credit among multiple lease owners, and transferring the credit to other parties.

The MMS received 2 responses during the 60-day comment period on this rule, 2 comments from ExxonMobil on March 20, 2008, and 2 comments from Chevron on March 31, 2008. Our reply to these four comments results in one change in § 256.92(a) from the proposed rule. In addition, we changed the wording in the title to this subpart and in §§ 256.94(c) and 256.95(b) and (c)(5) for clarity, but the title and these sections retain the same meaning as they had in the proposed rule.

Exxon asked for the following two changes in the rule:

1. On a lease where MMS elects to take royalty-in-kind (RIK), the lessee should be allowed to notify MMS of its intent to use credits for royalty, in which case the RIK election is postponed until credits are completed. Otherwise the credits could be lost because the company may choose not to bid on new leases and MMS decides to accept only RIK from the company's leases.

We decline to make this change to the rule. It would create an unnecessary interference with the RIK program just to save a claimant from having to engage in the sale of the credit to another party. Section 256.95 explicitly authorizes transfer of the credits to other parties. Unless the potential uses of the credit are inadequate to absorb all the value represented by the credit, this limitation will not inhibit realization of full value from a transfer of the credit. Potential uses of the credit are clearly not inadequate. For example, in FY 2006, the non-8(g), non-RIK royalty revenue from the GOM was over $2 billion while bonus revenue was $0.8 billion. Thus, ample opportunity exists for use of credits by recipients themselves or others to whom recipients may transfer the credits, which are only $60 million in total.

2. Do not give MMS discretion to apply lessee's unused credits 5 years after MMS issues them however MMS chooses. Lessees holding credits for a longer period is to the financial advantage of the government and computerized recordkeeping obviates any burden this continued holding would create.

Again, we decline to make this change to the rule. Although it is undeniably true that it is to the financial advantage of the government for the lessee to hold on to the credits, there remains concern about recordkeeping issues and administrative costs. Computerization of records facilitates keeping track of unused credits, but does not completely eliminate the monitoring burden and cost of that activity. Also, a company would not likely relinquish its lease to obtain the credit, and then not timely use the credit. Regardless, we will not void the credit after 5 years, but simply apply it to outstanding obligations of the lessee.

Chevron raised the following two objections to the rule:

3. The proposed credit amounts, equal to bonuses and rentals, do not make the parties whole; they should also include a reasonable interest rate for the time value of those payments and compensation for any investments made in exploration activities on the leases.

We decline to make this change to the rule because the GOMESA would not permit us to do so. The statute explicitly values an existing lease for exchange purposes at the amount of bonus and rentals paid until exchange. While we acknowledge that some lessees have spent large sums beyond the original bonus and subsequent rentals and discovered at least one prospect, GOMESA does not authorize reimbursement of either interest or exploration costs through the credits. Lessees retain the option not to relinquish their lease if they feel the compensation is inadequate.

4. The 1-year period to claim the credit is not enforceable. Chevron interprets the absence of a specific time period in the law to claim the credit as meaning that MMS does not have the authority to use a rule implementing a statute to set an expiration date that Congress did not include in the statute.

In response to this comment, the final rule extends the claim period of 1 year in the proposed rule to 2 years. But, we believe a firm deadline is both within our authority and appropriate as an efficient way to design this rulemaking. We have the authority to set a deadline because the statute (section 104(c)(4)) directs the Secretary to ''promulgate regulations that shall provide a process for * * * issuance of bonus or royalty credits in exchange for relinquishment of the existing lease * * *''. A time component is often an integral part of any such process, in this case one designed to resolve the issue of pre-existing leases in an area now designated as off-limits to new oil and gas leasing. Further, the statute does not preclude use of an expiration date and general rulemaking authority permits setting a reasonable expiration date

when it contributes to the purpose of the regulation. A 2-year deadline for acting on the exchange offer is reasonable and appropriate in this process because it provides ample time for lessees to consider and reach a decision about relinquishing their leases in return for the credits, while at the same time not prolonging revelation of that decision and its potential effects in this sensitive area. The deadline serves the statutory policy of assuring a timely approach for addressing outstanding concerns on the part of Florida residents relating to development of the affected leases by encouraging accelerated relinquishment of the leases. In return, lessees qualify for a reimbursement that would not be forthcoming normally for leases that will eventually expire on their own with no reimbursement. Also, the timing constraint serves to terminate rental payments after a reasonable time, thereby mitigating the amount of accrued rentals that would otherwise become part of the credits due if the lease is relinquished.

Both Exxon and Chevron object to the moratoria provisions in the statute. Exxon laments increasing barriers to oil and gas development that could diversify our Nation's sources of supply and notes that energy development and environmental protection can and should continue to co-exist. Chevron notes that the extension of moratoria is contrary to the GOMESA title. The company says that this provision will actually harm energy security by perpetuating the status quo (off-limits to exploration and production activities) in areas of the GOM that are known to contain significant oil and gas resources.

Regardless of the accuracy of these assertions, they are not germane to the rule. Rather, they are more about the concept behind the moratoria language and the requirement for MMS to promulgate a rule encouraging the relinquishment of certain leases offshore Florida as contained in GOMESA. In this case, we are simply drafting the implementation language for a policy decreed by Congress. Moreover, the rule does not force relinquishment of the eligible leases—it just provides an incentive for lessees to do so. Finally, we note that the moratoria period is finite and known resources in the area could be developed fairly quickly if policy should change in the future.

The proposed rule listed all the leases MMS records show as being in the area eligible for exchange for a credit, along with the bonus and rental amounts received from each of those leases and asked whether lessees had any information not consistent with this list. No comments were received on this published list and no one registered a claim that eligible leases were omitted or that the bonus and rental amounts which determine the value of the credits were incorrect.

Procedural Matters

Regulatory Planning and Review (Executive Order (E.O.) 12866)

This final rule is not a significant rule as determined by the Office of Management and Budget (OMB) and is not subject to review under E.O. 12866.

(1) This final rule will not have an annual effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The total value of the credit is defined by statute as bonuses and rental paid on the leases in the eligible area. The MMS records show 79 leases are eligible. Total bonuses and rentals paid in connection with these leases is about $60 million.

(2) This final rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. In fact, it endeavors to end leases whose operations are restricted to accommodate activity carried out by another Federal agency and whose potential activities are opposed by State and local officials in the area.

(3) This final rule will not alter the budgetary effects of entitlements, grants, user fees or loan programs, or the rights or obligations of their recipients.

(4) This final rule will not raise novel legal or policy issues. The final rule will implement a statutory program that exchanges a credit against future obligations for the return of old, largely inactive leases in an area deemed sensitive by statute.

Regulatory Flexibility Act

The Department of the Interior certifies that this final rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This final rule applies to the lessees holding record title interests in the 79 offshore leases located near the coastline of the State of Florida. These lessees fall under the Small Business Administration's North American Industry Classification System (NAICS) code 211111, Crude Petroleum and Natural Gas Extraction. Under this NAICS code, companies with less than 500 employees are considered small businesses. Only 1 of the current record title owners of these 79 leases has less than 500 employees. Moreover, this rule provides a clear benefit to the lessees. It specifies a valuable credit and a simple process for claiming a benefit for relinquishing a lease which the owners have had trouble operating due to access limitations.

This final rule will create a relatively small amount of total credits in exchange for certain leases through a longstanding relinquishment process. The credits could be used to fulfill any of a relatively large pool of routine bonus or royalty in-value OCS obligations under leases located in the GOM. The credits also will be freely transferable or assignable. Thus, should a small entity obtain a credit through a transfer, it will be able to use the credit for routine obligations or it could exchange the credit for approximately equivalent value in a potentially large market of other users. The provisions of this final rule will not have a significant adverse economic effect on offshore lessees and operators, including those that are classified as small businesses.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of MMS, call 1–888–734–3247. You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the DOI.

Small Business Regulatory Enforcement Fairness Act

This final rule is not a major rule under 5 U.S.C. 804(2) of the Small Business Regulatory Enforcement Fairness Act. This final rule:

a. Will not have an annual effect on the economy of $100 million or more. This final rule will offer credits worth approximately $60 million for the exchange of 79 leases in a sensitive area. Not all companies may choose to relinquish their leases for the credit offered. Even if all the credits were redeemed in 1 year, it will not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies, or geographic regions. The credit

represents only a transfer of previous payments back to lessees. The relatively small amount returned by these credits will have little effect on markets, agencies, or regions.

c. Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Productive activities have been restricted on the leases that will be returned, and the monetary credit received in exchange will be too small to have a perceptible effect.

Unfunded Mandates Reform Act

This final rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The final rule will not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings Implication Assessment (E.O. 12630)

Under the criteria in E.O. 12630, this final rule does not have significant takings implications as participation is voluntary. The final rule is not a governmental action capable of interference with constitutionally protected property rights. A Takings Implication Assessment is not required.

Federalism (E.O. 13132)

Under the criteria in E.O. 13132, this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. As noted in the proposed rule, the potential revenue sharing effects are excluded either explicitly or implicitly by virtue of the treatment of the expected credit redemptions. This final rule will not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this final rule will not affect that role. A Federalism Assessment is not required.

Civil Justice Reform (E.O. 12988)

This final rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (E.O. 13175)

Under the criteria in E.O. 13175, we have evaluated this final rule and determined that it has no potential effects on federally recognized Indian tribes. There are no Indian or tribal lands on the OCS.

Paperwork Reduction Act (PRA) of 1995

This rule contains new information collection requirements, and therefore MMS has submitted an information collection request to OMB for review and approval, as required under the PRA. The OMB has approved the new requirements and assigned OMB Control Number 1010–0174 (expiration 09–30–2011, 45 hours). This rule also refers to, but does not change, information collection burdens already covered and approved under OMB Control Number 1010–0006 (expiration 5/31/10). There were no changes in the information collection requirements from the proposed rule to the final rule. The rulemaking imposes no new non-hour cost burdens.

The title of the collection of information for the rule is ''30 CFR Part 256, Bonus or Royalty Credits for Relinquishing Certain Leases Offshore Florida.'' It should be noted that this rulemaking concerns only 79 current leases and will not affect future leases. Therefore, the associated information collection would be a one-time only hour burden should respondents holding eligible leases elect to take advantage of the bonus or royalty credits for relinquishing these leases. Responses to this collection are required to obtain or retain a benefit and are mandatory. The MMS will protect proprietary information according to section 26 of the OCS Lands Act, the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2), and § 256.10(d). The information collection does not include questions of a sensitive nature.

The OMB approved the collection of information required by the current 30 CFR part 256 regulations under OMB Control Number 1010–0006 (17,058 burden hours, $603,125 non-hour cost burdens, expiration 5/31/2010).

The final regulation will allow lessees to request a bonus or royalty credit, and to transfer this same bonus or credit to another party. We estimate a total of 45 burden hours, including the time for gathering the information and submitting the request to MMS for review. Refer to the chart for the burden.

Citation 30 CFR part 256 subpart N	Reporting & recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
92(a)	Request a bonus or royalty credit and submit supporting documentation	1	30	30
92(a)(5)	Submit a request to relinquish lease according to § 256.76	Burden currently approved under 1010–0006.*		
95	Request approval to transfer bonus or credit to another party with supporting information.	1	15	15
Total Burden			45	45

*240 hours for this requirement are already approved under 1010–0006.

A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The public may comment, at any time, on the accuracy of the information collection burden of our regulations and may submit comments to the Department of the Interior; Minerals Management Service; Attention: Regulations and Standards Branch; MS–4024; 381 Elden Street; Herndon, Virginia 20170–4817.

National Environmental Policy Act (NEPA) of 1969

We determined this final rule is categorically excluded from requirements for analysis under the National Environmental Policy Act and the Department Manual at 516 DM. This

rule deals with financial matters and has no direct effect on MMS decisions on oil and gas operations with the potential to affect the environment; hence, an Environmental Impact Statement is not required. Pursuant to Department Manual 516 DM 2.3A (2), section 1.10 of 516 DM 2, Appendix 1 excludes from documentation in an environmental assessment or impact statement ''policies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature; or the environmental effects of which are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or case-by-case.'' Section 1.3 of the same appendix clarifies that royalties and audits are considered routine financial transactions that are subject to categorical exclusion from the NEPA process. None of the exceptional circumstances set forth in 516 DM 2 Appendix 2 apply.

Data Quality Act

In developing this final rule we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, app. C section 515, 114 Stat. 2763, 2763A–153–154).

Effects on the Energy Supply (E.O. 13211)

This final rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

List of Subjects in 30 CFR Part 256

Administrative practice and procedure, Continental shelf, Government contracts, Mineral royalties, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: August 8, 2008.

C. Stephen Allred,

Assistant Secretary—Land and Minerals Management.

■ For the reasons stated in the preamble, the Minerals Management Service (MMS) proposes to amend 30 CFR part 256 as follows:

PART 256—LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTIAL SHELF

■ 1. The authority citation for part 256 is revised to read as follows:

Authority: 31 U.S.C. 9701, 42 U.S.C. 6213, 43 U.S.C. 1334, Pub. L. 109–432.

■ 2. Section 256.5 is amended by adding paragraphs (m) through (s) to read as follows:

§ 256.5 Definitions.

* * * * *

(m) *Bonus or royalty credit* means a legal instrument or other written documentation, or an entry in an account managed by the Secretary that a bidder or lessee may use in lieu of any other monetary payment for—

(1) A bonus due for a lease on the Outer Continental Shelf; or

(2) A royalty due on oil or gas production from any lease located on the Outer Continental Shelf.

(n) *Central planning area* means the Central Gulf of Mexico Planning Area of the Outer Continental Shelf, as designated in the document entitled ''Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012,'' dated February 2006.

(o) *Coastline* means the line of ordinary low water along that portion of the coast in direct contact with the open sea and the line marking the seaward limit of inland waters.

(p) *Desoto Canyon OPD* means the official protraction diagram designated as Desoto Canyon which has a western edge located at the universal transverse mercator (UTM) X coordinate 1,346,400 in the North American Datum of 1927 (NAD 27).

(q) *Destin Dome OPD* means the official protraction diagram designated as Destin Dome which has a western edge located at the universal transverse mercator (UTM) X coordinate 1,393,920 in the NAD 27.

(r) *Eastern planning area* means the Eastern Gulf of Mexico Planning Area of the Outer Continental Shelf, as designated in the document entitled ''Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012,'' dated February 2006.

(s) *Pensacola OPD* means the official protraction diagram designated as Pensacola which has a western edge located at the universal transverse mercator (UTM) X coordinate 1,393,920 in the NAD 27.

■ 3. Add a new subpart N consisting of §§ 256.90 through 256.95 to read as follows:

Subpart N—Bonus or Royalty Credits for Exchange of Certain Leases Offshore Florida

Sec.

256.90 Which leases may I exchange for a bonus or royalty credit?
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§ 256.90 Which leases may I exchange for a bonus or royalty credit?

You may exchange a lease for a bonus or royalty credit if it:

(a) Was in effect on December 20, 2006, and

(b) Is located in:

(1) The Eastern planning area and within 125 miles of the coastline of the State of Florida, or

(2) The Central planning area and within the Desoto Canyon OPD, the Destin Dome OPD, or the Pensacola OPD, and within 100 miles of the coastline of the State of Florida.

§ 256.91 How much bonus or royalty credit will MMS grant in exchange for a lease?

The amount of the bonus or royalty credit for an exchanged lease equals the sum of:

(a) The amount of the bonus payment; and

(b) All rent paid for the lease as of the date the lessee submits the request to exchange the lease under § 256.92 to MMS.

§ 256.92 What must I do to obtain a bonus or royalty credit?

(a) To obtain the bonus or royalty credit, all of the record title interest owners in the lease must submit the following to the MMS Regional Supervisor for Leasing and Environment for the Gulf of Mexico on or before October 14, 2010.

(1) A written request to exchange the lease for the bonus or royalty credit, signed by all record title interest owners in the lease.

(2) The name and contact information for a person who will act as a contact for each record title interest owner.

(3) Documentation of each record title interest owner's percentage share in the lease.

(4) A list of all bonus and rental payments for that lease made by, or on behalf of, each of the current record title owners.

(5) A written relinquishment of the lease as described in § 256.76. Notwithstanding § 256.76, the relinquishment will become effective when the credit becomes effective under paragraph (b) of this section.

(b) The credit becomes effective when MMS issues a certification to the record title interest owners that the lease has qualified for the credit.

§ 256.93 How is the bonus or royalty credit allocated among multiple lease owners?

The MMS will allocate the bonus or royalty credit for an exchanged lease to the current record title interest owners in the same percentage share as each owner has in the lease as of the date of the request to exchange the lease.

§ 256.94 How may I use the bonus or royalty credit?

(a) You may use a credit issued under this part in lieu of a monetary payment due under any lease in the Gulf of Mexico not subject to the revenue distribution provisions of section 8(g)(2) of the OCSLA (43 U.S.C. 1337(g)(2)) for either:

(1) A bonus for acquisition of an interest in a new lease; or

(2) Royalty due on oil and gas production after October 14, 2008.

(b) You may not use a bonus or royalty credit in lieu of delivering oil or gas taken as royalty-in-kind.

(c) If you have any credit that remains unused after 5 years from the date MMS issued the credit, MMS reserves the right to apply the remaining credit to any of your obligations.

§ 256.95 How do I transfer a bonus or royalty credit to another person?

(a) You may transfer your bonus or royalty credit to any other person by submitting to the MMS Adjudication Unit for the Gulf of Mexico two originally executed transfer letters of agreement.

(b) Authorized officers indicated on the qualification card filed with MMS of all companies involved in transferring and receiving the credit must sign the transfer letters of agreement.

(c) A transfer letter of agreement must include:

(1) The effective date of the transfer,

(2) The OCS–G number for the lease that originally qualified for the credit,

(3) The amount of the credit being transferred,

(4) Company names punctuated exactly as filed on the qualification card at MMS, and

(5) A corporate seal, if you used a corporate seal in your initial qualification to hold OCS leases.

(d) The transferee of a credit transferred under this section may use it in accordance with § 256.94 as soon as MMS sends a confirmation of the transfer to the transferee.

[FR Doc. E8–21135 Filed 9–11–08; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[SATS No: ND–050–FOR; Docket ID No. OSM–2008–0004]

North Dakota Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving an amendment to the North Dakota regulatory program (the ''North Dakota program'') under the Surface Mining Control and Reclamation Act of 1977 (''SMCRA'' or ''the Act''). North Dakota proposed minor revisions to its rules concerning self-bonding requirements, and updating terminology used for describing native grasslands, and correcting a cross reference error. North Dakota intended to revise its program to clarify ambiguities and improve operational efficiency.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Casper Field Office Director Telephone: 307/261–6550, Internet address: *JFleischman@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program
II. Submission of the Proposed Amendment
III. Office of Surface Mining Reclamation and Enforcement's (OSM) Findings
IV. Summary and Disposition of Comments
V. OSM Decision
VI. Procedural Determinations

I. Background on the North Dakota Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the North Dakota program on December 15, 1980. You can find background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval in the December 15, 1980, **Federal Register** (45 FR 82214). You can also find later actions concerning North Dakota's program and program amendments at 30 CFR 934.15, and 934.30.

II. Submission of the Proposed Amendment

By letter dated March 12, 2008, North Dakota sent us an amendment to its program (North Dakota Amendment number XXXVII, SATS No. ND–050–FOR, Administrative Record No. ND–LL–01) under SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota sent the amendment to include changes made at its own initiative.

We announced receipt of the proposed amendment in the April 18, 2008, **Federal Register** (73 FR 21087). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on May 5, 2008. We received a ''no inconsistency with this agency's regulations'' comment from the U.S. Department of Labor's Mine Safety and Health Administration (MSHA), ''no comments'' from the State Historical Society of North Dakota (SHPO), and a ''we agree'' comment from the North Dakota State University Extension Service (NDSU Extension Service).

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment.

A. Minor Revisions to North Dakota's Rules

1. North Dakota proposed a cross-reference change under its previously approved permit approval criteria Rule NDAC 69–05.2–10–03. The cross-reference is being changed from Section 69–05.2–04–01 to Section 69–05.2–04–01.1 and is due to a Rule numbering revision that was made several years ago when some new rules were adopted by North Dakota.

2. In NDAC 69–05.2–08–08, (pre-mine land use and vegetation data requirements), North Dakota proposed to update the terminology used to describe native grasslands to reflect the terminology now used by USDA's Natural Resource Conservation Service (NRCS).

Because these changes are minor, we find that they will not make North

Dakota's rules less effective than the corresponding Federal regulations.

B. Revisions to North Dakota's Rules That Are Not the Same as the Corresponding Provisions of the Federal Regulations

Additional language is proposed to North Dakota's coal regulations at NDAC 69–05.2–12–05.1 to allow the North Dakota Public Service Commission to accept bond ratings from other nationally recognized organizations, in addition to Moody's Investors Service and Standard and Poor's Corporation, for companies that guarantee self-bonds. A mining company requested this change to include credit rating agencies that have been defined by the United States Securities and Exchange Commission (SEC) as a Nationally Recognized Statistical Rating Organization (NRSRO). Such a designation by the SEC is permitted for use for certain regulatory purposes. Currently there are several NRSROs, and the top three by market share are Moody's Investors Service, Standard and Poor's Corporation and Fitch Ratings. The proposed rule recognizes the fact that, since the self-bonding rules were originally enacted, various other (in addition to the aforementioned) rating organizations with strong credentials are now available and are being widely used by both business and government. The utilization of NRSROs provides for reliance upon SEC's expertise to ensure that any ratings agency is not only credible and reliable, but utilizes what has become a market-based standard for ratings organizations.

The Federal self-bonding regulations at 30 CFR 800.23(b)(3)(i) require that an applicant for a self-bond have a ''current rating for its most recent bond issuance of 'A' or higher as issued by either Moody's Investors Service or Standard and Poor's Corporation.''

On September 29, 2006, the President signed the Credit Rating Agency Reform Act of 2006 into law (Pub. L. 109–291, 16 Stat. 1327). The new law authorized the SEC to implement registration, recordkeeping, financial reporting and oversight rules with respect to NRSROs. On May 23, 2007, the SEC adopted final regulations implementing the new law. Prior to adoption of the new rules, the SEC recognized seven (7) NRSROs: Moody's Investors Service; Standard and Poor's Rating Services; Fitch, Inc.; A.M. Best Co., Inc.; DBRS (Dominion Bond Rating Service Limited); Japan Credit Rating Agency, Ltd.; and Rating and Investment Information, Inc. On June 28, 2007, the SEC announced that those firms would continue to be recognized as NRSROs while the SEC processed their registration applications.

One of the purposes of the Credit Agency Reform Act of 2006 was to open up the credit rating industry to competition. Therefore, the rationale behind OSM's 1983 rules requiring use of either Moody's or Standard and Poor's is no longer valid or appropriate. Accordingly, we find that North Dakota's proposed rule change is consistent with the Credit Rating Agency Reform Act of 2006 and its implementing regulations and that its adoption will not make North Dakota's rules less effective than the corresponding Federal regulations at 30 CFR 800.23(b)(3)(i).

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record Document ID No. ND–LL–06), and on April 11, 2008 we received a comment from the North Dakota State University Extension Service that it ''is in full agreement with North Dakota State Program Amendment XXXVII from the North Dakota Public Service Commission'' (Administrative Record Document ID No. ND–LL–05).

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in North Dakota's program (Administrative Record Document ID No. ND–LL–03).

The Mine Safety and Health Administration (MSHA) of the U.S. Department of Labor responded on May 2, 2008, that ''none of the changes to the state regulations involve miners'/employees' health and safety issues'' and that ''MSHA review has determined that there is no inconsistency with this Agency's regulations'' (Administrative Record Document ID No. ND–LL–07).

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i), OSM requested comments on the amendment from the EPA (Administrative Record Document ID No. ND–LL–03). The EPA did not respond to our request.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On March 26, 2008, we requested comments on North Dakota's amendment (Administrative Record Document ID No. ND–LL–03). The SHPO responded on April 3, 2008, that ''we have no comments'' (Administrative Record Document ID No. ND–LL–04).

V. OSM's Decision

Based on the above findings, we approve North Dakota's March 12, 2008 amendment.

We approve the rules as proposed by North Dakota with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

To implement this decision we are amending the Federal regulations at 30 CFR part 934, which codify decisions concerning the North Dakota program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capacity of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the

submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian Tribes and have determined that the rule does not have substantial direct effects 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. The rule does not involve or affect Indian Tribes in any way.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 CFR U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C) *et seq.*).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 20, 2008.

Allen D. Klein,

Regional Director, Western Region.

■ For the reasons set out in the preamble, 30 CFR part 934 is amended as set forth below:

PART 934—NORTH DAKOTA

■ 1. The authority citation for part 934 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 934.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 934.15 Approval of North Dakota regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	* *	* * *
March 12, 2008	September 12, 2008	NDAC 69–05.2–08–08; NDAC 69–05.2–10–03; NDAC 69–05.2–12–05.1.

[FR Doc. E8–21295 Filed 9–11–08; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 105

[Docket Nos. TSA–2006–24191; USCG–2006–24196]

Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License

AGENCY: United States Coast Guard; DHS.

ACTION: Notice of compliance date, Captain of the Port Zones Hampton Roads, Morgan City, New Orleans, Upper Mississippi River, Miami, Key West, and St. Petersburg.

SUMMARY: This document informs owners and operators of facilities located within Captain of the Port Zones Hampton Roads, Morgan City, New Orleans, Upper Mississippi River, Miami, Key West, and St. Petersburg that they must implement access control procedures utilizing TWIC no later than January 13, 2009.

DATES: The compliance date for the TWIC regulations found in 33 CFR part 105 for Captain of the Port Zones Hampton Roads, Morgan City, New Orleans, Upper Mississippi River, Miami, Key West, and St. Petersburg is January 13, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this document as being available in the docket, are part of dockets TSA–2006–24191 and USCG–2006–24196, and are available for inspection or copying at the Docket Management Facility, 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. You may also find this docket on the Internet at *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call LCDR Jonathan Maiorine, telephone 1–877–687–2243. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

I. Regulatory History

On May 22, 2006, the Department of Homeland Security (DHS) through the United States Coast Guard (Coast Guard) and the Transportation Security Administration (TSA) published a joint notice of proposed rulemaking entitled ''Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License'' in the **Federal Register** (71 FR 29396). This was followed by a 45-day comment period and four public meetings. The Coast Guard and TSA issued a joint final rule, under the same title, on January 25, 2007 (72 FR 3492) (hereinafter referred to as the original TWIC final rule). The preamble to that final rule contains a discussion of all the comments received on the NPRM, as well as a discussion of the provisions found in the original TWIC final rule, which became effective on March 26, 2007.

On May 7, 2008, the Coast Guard and TSA issued a final rule to realign the compliance date for implementation of the Transportation Worker Identification Credential. 73 FR 25562. The date by which mariners need to obtain a TWIC, and by which owners and operators of vessels and outer continental shelf facilities must implement access control procedures utilizing TWIC, is now April 15, 2009 instead of September 25, 2008. Owners and operators of facilities that must comply with 33 CFR part 105 will still be subject to earlier, rolling compliance dates, as set forth in 33 CFR 105.115(e). The Coast Guard will continue to announce rolling compliance dates, as provided in 33 CFR 105.115(e), at least 90 days in advance via notices published in the **Federal Register**. The final compliance date for all COTP Zones will not be later than April 15, 2009.

II. Notice of Facility Compliance Date—COTP Zones Hampton Roads, Morgan City, New Orleans, Upper Mississippi River, Miami, Key West, and St. Petersburg

Title 33 CFR 105.115(e) currently states that ''[f]acility owners and operators must be operating in accordance with the TWIC provisions in this part by the date set by the Coast Guard in a Notice to be published in the **Federal Register**.'' Through this Notice, the Coast Guard informs the owners and operators of facilities subject to 33 CFR 105.115(e) located within COTP Zones Hampton Roads, Morgan City, New Orleans, Upper Mississippi River, Miami, Key West, and St. Petersburg that the deadline for their compliance with Coast Guard and TSA TWIC requirements is January 13, 2009.

The TSA and Coast Guard have determined that this date provides sufficient time for the estimated population required to obtain TWICs for these COTP Zones to enroll and for TSA to complete the necessary security threat assessments for those enrollment applications. We strongly encourage persons requiring unescorted access to facilities regulated by 33 CFR part 105 and located in one of these COTP Zones to enroll for their TWIC as soon as possible, if they haven't already. Additionally, we note that the TWIC Final Rule advises owners and operators of MTSA regulated facilities of their responsibility to notify employees of the TWIC requirements. Specifically, 33 CFR 105.200(b)(14) requires owners or operators of MTSA regulated facilities to ''[i]nform facility personnel of their responsibility to apply for and maintain a TWIC, including the deadlines and methods for such applications.'' Information on enrollment procedures, as well as a link to the pre-enrollment Web site (which will also enable an applicant to make an appointment for enrollment), may be found at *https://twicprogram.tsa.dhs.gov/TWICWebApp/*.

You may also visit our Web site at *homeport.uscg.mil/twic* for a framework showing expected future compliance dates by COTP Zone. This list is subject to change; changes in expected future compliance dates will appear on that Web site. The exact compliance date for COTP Zones will also be announced in the **Federal Register** at least 90 days in advance.

Dated: September 5, 2008.

Mark P. O'Malley,

Captain, U.S. Coast Guard, Chief, Ports and Facilities Activities.

[FR Doc. E8–21218 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–0848]

Drawbridge Operation Regulation; Harlem River, New York City, NY, Maintenance

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 regulation governing the operation of the Triborough (125 Street) Bridge across the Chelsea River, mile 1.3, at New York City, New York.

Under this temporary deviation the bridge may remain in the closed position for four months to facilitate bridge maintenance. A three-week advance notice for openings will be available to allow vessel traffic that can not pass under the closed draw to transit.

DATES: This deviation is effective from September 5, 2008 through December 31, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0848 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, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this deviation, call Joe Arca, Project Officer, First Coast Guard District, at (212) 668–7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The Triborough (125 Street) Bridge, across the Harlem River at mile 1.3, has a vertical clearance in the closed position of 54 feet at mean high water and 59 feet at mean low water. The existing regulations are listed at 33 CFR 117.789(d).

The owner of the bridge, the Triborough Bridge & Tunnel Authority (TBTA), requested this temporary deviation to facilitate bridge maintenance.

Habitual users of the waterway normally can transit under the Triborough (125 Street) Bridge without requesting a bridge opening due to the size of the vessel traffic that frequently transits this waterway and the ample vertical clearance provided by the bridge in the closed position.

The Willis Avenue Bridge which is also located on the Harlem River upstream from the Triborough (125 Street) Bridge is presently undergoing replacement construction. As a result, construction crane barges occasionally will need to transit through the Triborough (125 Street) Bridge to facilitate the ongoing upstream construction. The contractor working on the Triborough (125 Street) Bridge has agreed to open the bridge for the passage of the crane barges, provided at least a three-week advance notice is given by calling the bridge owner at (212) 870–6470 or (212) 870–6428.

Under this temporary deviation the Triborough (125 Street) Bridge may remain in the closed position at all times; except that, the bridge shall open on signal after at least a three-week notice is given by calling (212) 870–6470 or (212) 870–6428.

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: September 1, 2008.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E8–21358 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–0908]

Drawbridge Operation Regulation; Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, Hempstead, NY, Maintenance

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 regulation governing the operation of the Wantagh State Parkway Bridge across Sloop Channel at mile 15.4, at Jones Beach, New York. Under this temporary deviation the bridge may operate on a limited operating schedule for three months to facilitate the completion of bridge construction.

DATES: This deviation is effective from September 5, 2008 through November 30, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0908 and are available online at *http://www.regulations.gov*. They are also available for inspection or copying two locations: The Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this deviation, call Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Wantagh State Parkway Bridge has a vertical clearance in the closed position of 16 feet at mean high water. The existing drawbridge operation regulations are listed at 33 CFR 117.5.

The New York State Department of Transportation, requested a temporary deviation to facilitate the completion of bridge construction.

The waterway has seasonal recreational vessels and fishing vessels of various sizes.

We contacted the New York Marine Trades Association and Station Jones Beach. No objection to the proposed temporary deviation schedule was received.

Under this temporary deviation, in effect from September 5, 2008 through November 30, 2008, the Wantagh State Parkway Bridge at mile 15.4, across Sloop Channel, shall operate as follows:

From Monday through Friday between 5 p.m. and 6:30 a.m. and at 12 noon, the bridge shall open on signal after at least a 30-minute advance notice is given.

On Saturdays the Bridge shall open on signal after at least a 30-minute advance notice is given between 12:01 a.m. and 6:30 a.m., 10:30 a.m. and 1:30 p.m.

From 4:30 p.m. on Saturdays through 6:30 a.m. on Mondays the bridge shall open on signal every hour on the half-hour after at least a 30-minute advance notice is given.

All other times the bridge need not open for the passage of vessel traffic.

Advance notice may be given by calling (631) 383–6598.

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: August 31, 2008.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E8–21361 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Naval Support Activity, Panama City, FL

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is establishing ten restricted areas at Naval Support Activity (NSA), Panama City (PC), Florida. NSA, Panama City, and its major tenant command, the Naval Surface Warfare Center (NSWC), have been recognized as one of the lead research, development, test and evaluation laboratories of the U.S. Navy. In addition, the Naval Diving and Salvage Training Center (NDSTC) was relocated from the Washington Navy Yard to NSA PC and now hosts a consolidated training for the U.S. Army Corps of Engineers, U.S. Coast Guard, the Navy's satellite dive schools, the U.S. Marine Corps and the U.S. Air Force. As such, a large majority of military dive training is now concentrated at NSA, PC. The restricted areas in Panama City waters meet strict military training parameters that cannot be duplicated elsewhere. Military training in and around St. Andrews Bay has existed in harmony with local boat traffic and development since 1945. NSA, PC is formalizing these ongoing activities within the waters of St. Andrews Bay in an effort to maximize public safety and to preserve current military training vital to the Global War on Terror and to all service military readiness.

DATES: *Effective Date:* October 14, 2008.

ADDRESSES: U.S. Army Corps of Engineers, Attn: CECW–CO (David B. Olson), 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202–761–4922 or Mr. Jon Griffin, U.S. Army Corps of Engineers, Jacksonville District, Regulatory Division at 904–232–1680.

SUPPLEMENTARY INFORMATION:

I. Background
II. General Comments and Responses
III. Changes to Proposal

I. Background

Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps is amending the regulations in 33 CFR part 334 by establishing ten separate restricted areas as described in the **SUMMARY** paragraph above. The proposed regulations were published in the U.S. Army Corps of Engineers published a proposed rule in July 18, 2007, issue of the **Federal Register** (72 FR 39355) with a 30-day comment period.

II. General Comments and Responses

In response to the proposed rule, six comments were received. Comments were provided by an energy company, a non-governmental environmental organization, a state government department and other members of the public. The majority of the comments resulted from a misunderstanding of the actual utilization of the proposed restricted areas. Generally, the commenters presumed that anytime any of the proposed restricted areas were in use the entire area encompassed by the restricted area would be closed to public utilization. This is not the case since the military intends to utilize safety vessels accompanying each training session to define the area within a restricted area which is temporarily unavailable to the public. The definition of the term ''military security zones'' was redefined to make this distinction more apparent. The non-governmental environmental organization was concerned about the potential impacts of the military training operation on the manatee. The Corps contacted the organization to discuss the concerns. During these discussions, it was noted that the proposed restricted areas are not an indication of an increase in military training; rather it was an effort to provide better protection to the military and the public during the training sessions. The military use of these areas has been ongoing for many years and the proposed establishment of the restricted areas is not anticipated to increase the potential for impacts to the manatee. Additionally, the military noted the possibility that they would be able to provide additional data on the manatee since they will have spotters on each of the safety vessels accompanying the training operation. These spotters would be able to provide the organization with information on any manatee they sighted during the training operations. The organization provided a response of concurrence with the findings of the Corps and a removal of any objections to the establishment of the restricted areas.

III. Changes to Proposal

All of the paragraphs containing descriptions of the proposed restricted areas were modified to simplify and clarify the geographic boundaries of each. All of the restriction related paragraphs were revised to better define the term ''military security zones'' and to provide information on how activation of the restricted areas is to be noticed. The term ''military security zones'' is now more clearly identified as specific portion/s within any of the restricted areas which are defined by the safety vessels accompanying each training exercise. A new subparagraph added to each of the restriction paragraphs provided information regarding the notification of activation of any of the proposed restricted areas by way of General Local Notice to Mariners for normal/routine activations and by Notice to Mariners and Broadcast Notice to Mariners for significant exercise and training events.

Procedural Requirements

a. *Review Under Executive Order 12866.* These rules are issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. *Review Under the Regulatory Flexibility Act.* These rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). The Corps determined that these restricted areas would have practically no economic impact on the public, and would not create any anticipated navigational hazard or interference with existing waterway traffic. These rules will have no significant economic impact on small entities.

c. *Review Under the National Environmental Policy Act.* These regulations will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment has been prepared. It may be reviewed at the district office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. *Unfunded Mandates Act.* These rules do not impose an enforceable duty among the private sector and, therefore, are not a Federal private sector mandate and are not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Pub. L. 104–4, 109 Stat. 48, 2 U.S.C. 1501 *et seq.*). We have also found under Section 203 of the Act, that small governments will not be significantly or uniquely affected by these rules.

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Restricted areas, Waterways.

■ For the reasons set out in the preamble, the Corps amends 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for 33 CFR part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Add § 334.761 to read as follows:

§ 334.761 Naval Support Activity Panama City; St. Andrews Bay; restricted areas.

(a) *The areas.* (1) *Area AP–1.* The area is bounded by a line connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°10′00″ N, 085°44′37″ W; Northeast point—30°10′00″ N, 085°43′17″ W; Southeast point—30°09′51″ N, 085°43′17″ W; Southwest point—30°09′50″ N, 085°44′32″ W; following mean high waterline to 30°09′57.5″ N, 085°44′37″ W; then northerly to point of origin.

(2) *Area BA–1.* The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°11′14″ N, 085°44′59″ W; Northeast point—30°11′13″ N, 085°44′32″ W; Southeast point—30°10′31″ N, 085°44′32″ W; Southwest point—30°10′32″ N, 085°44′59″ W, then northerly to point of origin.

(3) *Area BA–2.* The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°11′13″ N, 085°44′32″ W; Northeast point—30°11′07″ N, 085°44′01″ W; Southeast point—30°10′32″ N, 085°44′00″ W; Southwest point—30°10′31″ N, 085°44′32″ W, then northerly to point of origin.

(4) *Area BA–3.* The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°10′32″ N, 085°44′59″ W; Northeast point—30°10′32″ N, 085°44′09″ W; Southeast point—30°10′00″ N, 085°44′09″ W; Southwest point—30°10′01″ N, 085°44′41″ W, then northerly to point of origin.

(5) *Area BA–4.* The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°10′32″ N, 085°44′09″ W; Northeast point—30°10′32″ N, 085°42′35″ W; Southeast point—30°10′00″ N, 085°42′35″ W; Southwest point—30°10′00″ N, 085°44′09″ W, then northerly to point of origin.

(6) *Area BA–5.* The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): North point—30°08′41″ N, e 085°41′25″ W; East point—30°08′08″ N, 085°40′48″ W; South point—30°07′00″ N, 085°42′29″ W; West point—30°07′31″ N, 085°43′09″ W, then northerly to point of origin.

(b) *The restrictions.* (1) For the purposes of this section, ''military security zones'' are specific portion/s within any of the restricted areas identified in this section that are defined by the safety vessels accompanying each training exercise. The mission of the safety vessels is to maximize safety conditions for both military and civilian personnel during exercises conducted within the restricted area by intercepting any waterbased activity occurring within the active military security zone/s and offering navigational advice to ensure the activity remains clear of the exercise.

(2) All areas identified in this section have the potential to be active at any time. The normal/routine activation of any area will be noticed to the public via a General Local Notice to Mariners. Activation of any area for significant exercises and training events will be noticed, in advance and during the event, to the public via Notice to Mariners and Broadcast Notice to Mariners.

(3) *Area AP–1.* All persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the military security zone/s established in the restricted area during training events.

(4) *Areas BA–1 through BA–5.* All persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the military security zone/s established in the restricted area during training events.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commanding Officer, Naval Support Activity, Panama City Florida, and such agencies as he/she may designate.

■ 3. Add § 334.762 to read as follows:

§ 334.762 Naval Support Activity Panama City; North Bay and West Bay; restricted areas.

(a) *The areas.* (1) *Area NB–1.* The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°12′16″ N, 085°44′14″ W; Northeast point—30°12′16″ N, 085°43′01″ W; Southeast point—30°11′16″ N, 085°44′14″ W; Southwest point—30°11′17″ N, 085°44′49″ W, then northerly to point of origin.

(2) *Area NB–2.* The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°14′00″ N, 085°44′14″ W; Northeast point—30°14′00″ N, 085°41′51″ W; Southeast point—30°12′16″ N, 085°43′01″ W; Southwest point—30°12′16″ N, 085°44′14″ W, then northerly to point of origin.

(3) *Area NB–3.* The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): North point—30°17′02″ N, 085°45′34″ W; East point—30°14′56″ N, 085°43′45″ W; South point—30°14′01″ N, 085°44′59″ W; West point—30°16′10″ N, 085°46′52″ W, then northerly to point of origin.

(b) *The restrictions.* (1) For the purposes of this section, ''military security zones'' are specific portion/s within any of the restricted areas identified in this section that are defined by the safety vessels accompanying each training exercise. The mission of the safety vessels is to maximize safety conditions for both military and civilian personnel during exercises conducted within the restricted area by intercepting any waterbased activity occurring within the active military security zone/s and offering navigational advice to ensure the activity remains clear of the exercise.

(2) All areas identified in this section have the potential to be active at any time. The normal/routine activation of any area will be noticed to the public via a General Local Notice to Mariners. Activation of any area for significant exercises and training events will be noticed, in advance and during the event, to the public via Notice to Mariners and Broadcast Notice to Mariners.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commanding Officer, Naval Support Activity, Panama City Florida, and such agencies as he/she may designate.

■ 4. Add § 334.763 to read as follows:

§ 334.763 Naval Support Activity Panama City; Gulf of Mexico; restricted area.

(a) *The area.* The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): North point—30°10′29″ N, 085°48′20″ W; East point—30°07′58″ N, 085°44′44″ W; South point—30°05′24″ N, 085°47′29″ W; West point—30°07′55″ N, 085°51′05″ W, then northerly to point of origin.

(b) *The restrictions.* (1) For the purposes of this section, ''military security zones'' are specific portion/s within any of the restricted areas identified in this section that are defined by the safety vessels accompanying each training exercise. The mission of the safety vessels is to maximize safety conditions for both military and civilian personnel during exercises conducted within the restricted area by intercepting any waterbased activity occurring within the active military security zone/s and offering navigational advice to ensure the activity remains clear of the exercise.

(2) All areas identified in this section have the potential to be active at any time. The normal/routine activation of any area will be noticed to the public via a General Local Notice to Mariners. Activation of any area for significant exercises and training events will be noticed, in advance and during the event, to the public via Notice to Mariners and Broadcast Notice to Mariners.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commanding Officer, Naval Support Activity, Panama City Florida, and such agencies as he/she may designate.

Dated: September 5, 2008.

James R. Hannon, Jr.,

Acting Chief, Operations, Directorate of Civil Works.

[FR Doc. E8–21292 Filed 9–11–08; 8:45 am]

BILLING CODE 3710–92–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 130

[EPA–R07–OW–2008–0613; FRL–8713–5]

Public Notice on the Internet of Region 7 Disapprovals of Clean Water Act Impaired Waters Lists

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of change in procedures.

SUMMARY: EPA Region 7 is announcing a change to its procedures for issuing a public notice seeking comment on the Region's disapproval of a submittal by a state of an impaired waters list under Clean Water Act Section 303(d). We intend to provide this public notice on the Internet at *http://www.epa.gov/region7* rather than by publication in newspapers of general circulation throughout the state.

DATES: This change in procedures will be effective on September 12, 2008.

FOR FURTHER INFORMATION CONTACT: Jeannette Schafer at (913) 551–7297 or by e-mail at *schafer.jeannette@epa.gov.*

SUPPLEMENTARY INFORMATION: This notice announces a change to the manner in which EPA Region 7 issues a public notice seeking comment under 40 CFR 130.7(d)(2) on the Region's disapproval of a submittal by a state of a Clean Water Act (''CWA'') Section 303(d) List.

Under Section 303(d)(1)(A) of the CWA, each state is required to identify and prioritize those waters within its boundaries for which technology-based effluent limitations and other required controls are not stringent enough to achieve the applicable water quality standards. See CWA 303(d)(1); 40 CFR 130.7(b)(1). After a state develops its CWA Section 303(d) List, the state must then submit the list to EPA for review and approval. See 40 CFR 130.7(d)(1). Within 30 days of a state's submission, EPA must approve or disapprove the state's list. If EPA disapproves the state's CWA Section 303(d) List, it must identify the impaired waters that should be listed within 30 days from the date of disapproval. EPA regulations provide that the Regional Administrator must promptly issue a public notice seeking comment on EPA's listing decision. After considering public comment and making appropriate revisions, the Region transmits the list to the state. See 40 CFR 130.7(d)(2).

The CWA and applicable regulations do not specify the type of public notice to be issued for EPA listing actions. In the past, EPA Region 7 has issued public notices through publication in newspapers of general circulation.

In light of the continuing improvements in public access to the Internet and EPA' s ability to disseminate materials on the Internet, EPA Region 7 intends to notify the public of listing actions under 40 CFR 130.7(d)(2) by placing notices on the Internet rather than using publication in newspapers of general circulation. The Internet provides a more effective and efficient means to provide notice. Using the Internet makes the notice available to the public during the entirety of the comment period, rather than only on the day the notice is published in the local newspaper. The Region believes the Internet notice is likely to reach a larger audience, since the Internet is generally available through schools, work, and libraries. Internet notice also enables the Region to reach beyond the finite distribution areas of local newspapers to make interested persons aware of the Region's listing decision. We plan to place the notices on the EPA Region 7 Web site at *http://www.epa.gov/region7.* The Region also plans to issue news releases notifying media outlets about our listing decisions, as well as notifications to elected officials and interested parties. The letter transmitting the final list to the state will be accessible from *http://www.epa.gov/region7*.

To the extent that this announcement may be considered a rule, EPA considers it to be a procedural rule which is exempt from notice and comment rulemaking requirements under 5 U.S.C. 553(b)(3)(A).

Authority: 33 U.S.C. 1313(d); 40 CFR 130.7.

Dated: August 28, 2008.

William A. Spratlin,

Director, Water, Wetlands and Pesticides Division, Region 7.

[FR Doc. E8–21233 Filed 9–11–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 412

[CMS–1554–F]

RIN 0938–AP19

Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2009

Correction

In rule document Z8–17797 beginning on page 46370 in the issue of Friday, August 8, 2008, make the following correction:

On page 46375, in Table 1, in the third column, in the ninth entry,''.0347'' should read ''3.0347''.

[FR Doc. Z8–17797 Filed 9–11–08; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071030625–7696–02]

RIN 0648–XK19

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for the State of New York

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the 2008 summer flounder commercial quota allocated to the State of New York has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in New York for the remainder of calendar year 2008, unless additional quota becomes available through a transfer from another state. Regulations governing the summer flounder fishery require publication of this notification to advise New York that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing summer flounder in New York.

DATES: Effective 0001 hours, September 14, 2008, through 2400 hours, December 31, 2008.

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

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.100.

The initial total commercial quota for summer flounder for the 2008 calendar year was set equal to 9,462,001 lb (4,292 mt) (72 FR 74197, December 31, 2007). The percent allocated to vessels landing summer flounder in New York is 7.64699 percent, resulting in a commercial quota of 723,558 lb (328 mt). The 2008 allocation was reduced to 697,484 lb (316 mt) when research set-aside and 2007 quota overages were deducted.

Section 648.101(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor state commercial quotas and to determine when a state's commercial quota has been harvested. NMFS then publishes a notification in the **Federal Register** to advise the state and to notify Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined, based upon dealer reports and other available information, that New York has harvested its quota for 2008.

The regulations at § 648.4(b) provide that Federal permit holders agree, as a condition of the permit, not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, September 14, 2008, further landings of summer flounder in New York by vessels holding summer flounder commercial Federal fisheries permits are prohibited for the remainder of the 2008 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, September 14, 2008, federally permitted dealers are also notified that they may not purchase summer flounder from federally permitted vessels that land in New York for the remainder of the calendar year, or until additional quota becomes available through a transfer from another state.

Classification

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

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

Dated: September 8, 2008.

James P. Burgess,

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

[FR Doc. E8–21347 Filed 9–11–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106671–8010–02]

RIN 0648–XK43

Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Amendment 80 Vessels Subject to Sideboard Limits in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by Amendment 80 vessels subject to sideboard limits in the Gulf of Alaska (GOA). This action is necessary because the fourth seasonal apportionment of the 2008 Pacific halibut prohibited species catch (PSC) limit specified for the deep-water species fishery by Amendment 80 vessels subject to sideboard limits in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 9, 2008, through 1200 hrs, A.l.t., October 1, 2008.

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

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

The fourth seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the deep-water species fishery by Amendment 80 vessels subject to sideboard limits in the GOA is 3 metric tons as established by the 2008 and 2009 harvest specifications for groundfish of the GOA (73 FR 10562, February 27, 2008), for the period 1200 hrs, A.l.t., September 1, 2008, through 1200 hrs, A.l.t., October 1, 2008.

In accordance with § 679.20(d)(1)(vi)(C)(*1*), the Administrator, Alaska Region, NMFS, has determined that the third seasonal

apportionment of the 2008 Pacific halibut bycatch allowance specified for the deep-water species fishery by Amendment 80 vessels subject to sideboard limits in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by Amendment 80 vessels subject to sideboard limits in the GOA. For the Amendment 80 sideboards, the species and species groups that comprise the deep-water species fishery include sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder, and do not include northern rockfish, Pacific ocean perch, and pelagic shelf rockfish in the Central GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the deep-water species fishery by Amendment 80 vessels subject to sideboard limits using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 8, 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: September 9, 2008.

James P. Burgess,

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

[FR Doc. E8–21325 Filed 9–9–08; 4:15 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106671–8010–02]

RIN 0648–XK44

Fisheries of the Exclusive Economic Zone Off Alaska; Shallow-Water Species by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for shallow-water species by vessels using trawl gear in the Gulf of Alaska (GOA) for 36 hours. This action is necessary to fully use the fourth seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in of the GOA.

DATES: Effective 0800 hrs, Alaska local time (A.l.t.), September 10, 2008, through 2000 hrs, A.l.t., September 11, 2008. Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 24, 2008.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by ''RIN 0648–XK44,'' by any one of the following methods:

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

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 (e.g., name, address) 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 (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

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

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

NMFS prohibited directed fishing for shallow-water species by vessels using trawl gear in the GOA under § 679.21(d)(7)(i) on September 3, 2008 (73 FR 51601, September 4, 2008).

NMFS has determined that approximately 134 mt remain in the fourth seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the fourth seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA, NMFS is terminating the previous closure and is opening directed fishing for trawl shallow-water species by vessels using trawl gear in the GOA. In accordance with § 679.21(d)(7)(i), the Regional Administrator finds that the fourth seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA will be reached after 36 hours. Consequently, NMFS is prohibiting directed fishing for shallow-water species by vessels using trawl gear in the GOA, effective 2000 hrs, A.l.t., September 11, 2008.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and 50 CFR 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from

responding to the most recent fisheries data in a timely fashion and would delay the opening of the shallow-water species fishery by vessels using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 8, 2008.

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

Without this inseason adjustment, NMFS could not allow the shallow-water species fishery for vessels using trawl gear in the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 24, 2008.

This action is required by § 679.21 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: September 9, 2008.

James P. Burgess,

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

[FR Doc. E8–21326 Filed 9–9–08; 4:15 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 178
Friday, September 12, 2008

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0842; Directorate Identifier 2008–NE–24–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier-Rotax GmbH 914 F Series Reciprocating Engines

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) issued 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:

Occurrence of cracks in the exhaust muffler in the area of the exhaust bottom and exhaust flange were reported, which could lead to toxic contamination inside the cabin.

We are proposing this AD to prevent carbon monoxide contamination in the cockpit, which can adversely affect the pilot, and possibly result in loss of control of the aircraft.

DATES: We must receive comments on this proposed AD by October 14, 2008.

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

- *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.

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.

FOR FURTHER INFORMATION CONTACT: Richard Woldan, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park; Burlington, MA 01803; telephone (781) 238–7136; fax (781) 238–7199.

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–2008–0842; Directorate Identifier 2008–NE–24–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 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).

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 2006–0127, dated May 18, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Occurrence of cracks in the exhaust muffler in the area of the exhaust bottom and exhaust flange were reported, which could lead to toxic contamination inside the cabin.

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

Relevant Service Information

Bombardier-Rotax GmbH has issued Service Bulletin SB–914–028 R1, dated November 8, 2004. 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 Austria, and is approved for operation in the United States. Pursuant to our bilateral agreement with Austria, 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 provided by Austria and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 75 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $1,674 per product. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $137,550. Our cost estimate is exclusive of possible warranty coverage.

Authority for This Rulemaking

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

Aviation Programs,'' describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier-Rotax GmbH: (Formerly Rotax GmbH): Docket No. FAA–2008–0842; Directorate Identifier 2008–NE–24–AD.

Comments Due Date

(a) We must receive comments by October 14, 2008.

Affected Airworthiness Directives (ADs)

(b) None.

Applicability

(c) This AD applies to Bombardier-Rotax GmbH 914 F series reciprocating engines with engine exhaust muffler, part number (P/N) 979402 or 979404, with serial numbers (SNs) listed in Table 1 of this AD, installed. These engines are installed on, but not limited to, Aeromot-Industria Mecanico Metalurgica, AMT–300 (Turbo Ximango Shark), Diamond Aircraft Industries, HK 36 TTS, HK 36 TTC, HK 36 TTC–ECO, and Stemme GmbH & Co. KG, S10–VT series powered sailplanes.

TABLE 1—AFFECTED EXHAUST MUFFLERS BY GROUP, P/N, AND SN

Group	P/N	SN
(1) A	979402	02.0001 through 02.0322, 03.0002, 03.0005, 03.0011, 03.0015, 03.0017, 03.0028, 03.0029, 03.0037, 03.0038, 03.0040, 03.0050, 03.0069, 03.0072, 03.0073, 03.0078, 03.0080 through 03.0086, 03.0088 through 03.0090, 03.0092 through 03.0101, 03.0103, and 03.0108.
(2) B	979402	03.0001, 03.0003, 03.0004, 03.0006, 03.0007 through 03.0010, 03.0012 through 03.0014, 03.0016, 03.0018 through 03.0027, 03.0030 through 03.0036, 03.0039, 03.0041 through 03.0049, 03.0051 through 03.0068, 03.0070, 03.0071, 03.0074 through 03.0077, 03.0079, 03.0087, 03.0091, 03.0102, and 03.0104 through 03.0107.
	979404	03.0200 through 04.0799.

Reason

(d) Occurrence of cracks in the exhaust muffler in the area of the exhaust bottom and exhaust flange were reported, which could lead to toxic contamination inside the cabin.

We are proposing this AD to prevent carbon monoxide contamination in the cockpit, which can adversely affect the pilot, and possibly result in loss of control of the aircraft.

Actions and 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.

Initial Visual Inspection

Group A Exhaust Mufflers

(f) For exhaust mufflers specified in Group A of Table 1 of this AD, within 50 hours of operation after the effective date of this AD, do the following:

(1) Perform a visual inspection around the fillet weld of the exhaust inlet flange and around the weld of the exhaust outlet for evidence of leakage or cracks. Information on inspecting the exhaust muffler can be found in Bombardier-Rotax GmbH 914 F Service Bulletin SB–914–028 R1, dated November 8, 2004.

(2) If you see evidence of an exhaust leak or cracks, replace the exhaust muffler.

Group B Exhaust Mufflers

(g) For exhaust mufflers specified in Group B of Table 1 of this AD, within 50 hours of operation after the effective date of this AD, do the following:

(1) Perform a visual inspection around the weld of the exhaust outlet for evidence of leakage or cracks. Information on inspecting the exhaust muffler can be found in Bombardier-Rotax GmbH 914 F Service Bulletin SB–914–028 R1, dated November 8, 2004.

(2) If you see evidence of an exhaust leak or cracks, replace the exhaust muffler.

Repetitive Visual Inspections

(h) Within 50 hours of operation since the last inspection, perform the actions specified in paragraphs (f)(1) through (f)(2) and (g)(1) through (g)(2) of this AD.

FAA AD Differences

(i) None.

Other FAA AD Provisions

(j) Alternative Methods of Compliance (AMOCs): The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(k) Refer to MCAI EASA Airworthiness Directive 2006–0127, dated May 18, 2006, and Bombardier-Rotax GmbH 914 F Service Bulletin SB–914–028 R1, dated November 8, 2004, for related information.

(l) Contact Richard Woldan, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7136; fax (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts, on September 5, 2008.

Peter A. White,

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

[FR Doc. E8–21282 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Proposed Modification of the Asheville, NC, Class C Airspace Area; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces a fact-finding informal airspace meeting to solicit information from airspace users and others concerning a plan to modify the Class C airspace area at Asheville, NC. The modification would ensure that arriving aircraft are contained within Class C airspace while flying instrument approaches to runways 16 and 34 at the Asheville Regional Airport. The purpose of the meeting is to provide interested parties an opportunity to present views, recommendations, and comments to be considered by the FAA in developing a proposal. All comments received during the meeting will be considered prior to issuance of a notice of proposed rulemaking.

DATES: The informal airspace meeting will be held on Tuesday, October 14, 2008, beginning at 6:30 p.m. Comments must be received on or before November 14, 2008.

ADDRESSES: The meeting will be held at the O.D. Lacey Griffin Building, 21 Aviation Way, Fletcher, NC 28732.

Comments: Send comments on the proposal to Mark Ward, Manager, Operations Support Group, Air Traffic Organization Eastern Service Area, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Grey Pelkey, Manager, Asheville Airport Traffic Control Tower, Asheville Airport, 61 Terminal Drive Suite 2, Fletcher, NC 28732; Telephone (828) 684–0421.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) The meeting will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate.

(b) The meeting will be informal in nature and will be conducted by one or more representatives of the FAA Eastern Service Area. A representative from the FAA will present an informal briefing on the planned modification to the Class C airspace at Asheville, NC. Each participant will be given an opportunity to deliver comments or make a presentation, although a time limit may be imposed. Only comments concerning the plan to modify the Class C airspace area at Asheville, NC, will be accepted.

(c) Each person wishing to make a presentation to the FAA panel will be asked to sign in and estimate the amount of time needed for such presentation. This will permit the panel to allocate an appropriate amount of time for each presenter. The meeting will not be adjourned until everyone on the list has had an opportunity to address the panel.

(d) Position papers or other handout material relating to the substance of these meetings will be accepted. Participants wishing to submit handout material should present an original and two copies (3 copies total) to the presiding officer. There should be additional copies of each handout available for other attendees.

(e) The meeting will not be formally recorded. However, a summary of comments made at the meeting will be filed in the docket.

Agenda for the Meeting

—Sign-in.

—Presentation of Meeting Procedures.

—FAA explanation of the proposed Class C modifications.

—Public Presentations and Discussions.

—Closing Comments.

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

Issued in Washington DC, on September 2, 2008.

Edith V. Parish,

Manager, Airspace and Rules Group.

[FR Doc. E8–21216 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–0721]

RIN 1625 AA09

Drawbridge Operation Regulation; Willamette River, Portland, OR, Schedule Change

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the drawbridge operation regulation for the Broadway and Burnside Bridges across the Willamette River, mile 11.7, in Portland, Oregon so that one-hour notice would be required from 8 a.m. to 5 p.m. Monday through Friday and two-hour notice at all other times. The Broadway Bridge would be deleted as a point of contact for upstream vessels, leaving the Hawthorne Bridge as the point of contact for both upstream and downstream travel directions.

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

ADDRESSES: You may submit comments identified by the Coast Guard docket number USCG–2008–0721 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 Austin Pratt, Chief, Bridge Section, Waterways Management Branch, 13th Coast Guard District, telephone 206–220–7282. 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–2008–0721), 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. Enter the docket number for this rulemaking (USCG–2008–0721) in the search box, and click ''Go>>.'' You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays or the 13th Coast Guard District Waterways Management Branch at 915 Second Avenue, Seattle, WA 98174–1067 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://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 a public meeting 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

The proposed rule would enable Multnomah County, the owner of the Broadway Bridge, to operate the draw if at least one hour of notice is provided from 8 a.m. to 5 p.m. Monday through Friday and two hours of notice at all other times. From July 1, 2005, through June 30, 2007, the draw opened 165 times for vessels. This bridge opens on average slightly less than 7 times a month for river traffic. Most vessels that require the Broadway bascule span to open are grain ships, which are piloted by Columbia River Pilots. These ships have typically been able to give several hours notice of arrival as they must navigate over 100 miles of the Columbia River to reach Portland from the Pacific Ocean.

The operating regulations currently in effect for the Broadway Bridge are found at 33 CFR part 117. The drawspan currently operates under the general requirements of 33 CFR 117.897(a)(1) such that it must open on signal for the passage of vessels on signal except that Monday through Friday it need not open from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m. These closed periods are not effective for federal holidays, except Columbus Day. The Broadway Bridge is the point of contact for upstream or inbound vessels for openings of drawbridges that require advance notice. This change would also give this function to the Hawthorne Bridge, which is the point of contact for vessels traveling downstream.

The bridge provides a minimum of 90 feet of vertical clearance in the closed position above low water (elevation 0.0 feet Portland City Datum). It is considerably higher than other bascule bridges on the Willamette in downtown Portland, which partly explains its low frequency of opening. The horizontal clearance is 250 feet. In the fully open position the bridge allows unlimited vertical clearance over the channel.

The bridge is located on a major arterial in Portland carrying both local and commuter traffic.

The proposed rule would also restore normal double-leaf operations to the Burnside Bridge, mile 12.4, following a lengthy rehabilitation project.

Discussion of Proposed Rule

The Coast Guard proposes to amend 33 CFR 117.897 by revising the current paragraph (a)(1) to add the Broadway Bridge to the bridges for which there is the notice requirement for openings. The point of contact for both upstream and downstream traffic would be the Hawthorne Bridge rather than the Broadway and Hawthorne, respectively. The Burnside Bridge would be required to operate both leaves per the same schedule.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. We reached this conclusion based on the fact that most vessel operators can plan their passage in accordance with the closed periods to minimize any impact on their activities.

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 proposed rule would predominantly affect grain ships traveling to and from the dock at C.L.D. Pacific Grain immediately upstream of the bridge on the east bank. The pilots of these vessels should be able to provide this notice with no undue burden. The single point of contact for advance notice simplifies the regulation for users.

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 Austin Pratt, Chief, Bridge Section, Waterways Management Branch, 13th Coast Guard District, at (206) 220–7282. 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 will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and 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 Information and Regulatory Affairs has not designated this as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Amend § 117.897 by revising paragraphs (c) introductory text, (c)(3)(i) and (c)(3)(iii) to read as follows:

§ 117.897 Willamette River.

* * * * *

(c) The draws of the bridges listed in paragraph (c)(3) of this section shall open on signal if appropriate advance notice is given to the drawtender of the

Hawthorne Bridge subject to the following requirements and exceptions:

* * * * *

(3)(i) Broadway Bridge, mile 11.7, from 8 a.m. to 5 p.m. Monday through Friday, one hour's notice shall be given for draw openings. At all other times, notice of at least two hours in advance is required.

* * * * *

(iii) Burnside Bridge, mile 12.4, from 8 a.m. to 5 p.m. Monday through Friday, one hour's notice shall be given for draw openings. At all other times, two hours notice is required.

* * * * *

Dated: September 2, 2008.

J.P. Currier,

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

[FR Doc. E8–21360 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–2028; MB Docket No. 08–176; RM–11483]

Television Broadcasting Services; Atlantic City, NJ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a channel substitution proposed by ZGS Philadelphia, Inc. (''ZGS''), the licensee of WWSI–DT, DTV channel 49, Atlantic City, New Jersey. ZGS requests the substitution of DTV channel 10 for channel 49 at Atlantic City.

DATES: Comments must be filed on or before October 14, 2008, and reply comments on or before October 27, 2008.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Brenda Holland, Esq., Davis Wrights Tremaine LLP, 1919 Pennsylvania Avenue, Suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joyce L. Bernstein, *joyce.bernstein@fcc.gov,* Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 08–176, adopted August 28, 2008, and released September 2, 2008. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622(i) [Amended]

2. Section 73.622(i), the DTV Table of Allotments under New Jersey, is amended by adding channel 10 and removing channel 49 at Atlantic City.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E8–21206 Filed 9–11–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–2027; MB Docket No. 08–175; RM–11484]

Television Broadcasting Services; Bryan, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a channel substitution proposed by Comcorp License Corp. (''Comcorp''), the licensee of KYLE–DT, DTV channel 28, Bryan, Texas. Comcorp requests the substitution of DTV channel 29 for channel 28 at Bryan.

DATES: Comments must be filed on or before October 14, 2008, and reply comments on or before October 27, 2008.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Scott S. Patrick, Esq., Dow Lohnes PLLC, 1200 New Hampshire Avenue, NW., Suite 800, Washington, DC 20036–6802.

FOR FURTHER INFORMATION CONTACT: David Brown, *david.brown@fcc.gov,* Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 08–175, adopted August 26, 2008, and released September 2, 2008. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor,

Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622(i) [Amended]

2. Section 73.622(i), the DTV Table of Allotments under Texas, is amended by adding channel 29 and removing channel 28 at Bryan.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E8–21211 Filed 9–11–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket ID PHMSA–RSPA–2004–19854]

RIN 2137–AE15

Pipeline Safety: Integrity Management Program for Gas Distribution Pipelines

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation.

ACTION: Proposed rule; extension of comment period.

SUMMARY: PHMSA is extending the period for public comment to give interested persons an additional 30 days to comment on a proposed rule to amend the Federal Pipeline Safety Regulations to require operators of gas distribution pipelines to develop and implement integrity management (IM) programs.

DATES: Anyone interested in filing written comments on the rule proposed in this document must do so by October 23, 2008. PHMSA will consider late filed comments so far as practicable.

ADDRESSES: Comments should reference Docket No. PHMSA–RSPA–2004–19854 and may be submitted in the following ways:

- *E-Gov Web Site: http://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* DOT Docket Operations Facility (M–30), U.S. Department of Transportation, West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* DOT Docket Operations Facility, U.S. Department of Transportation, West Building, 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.

Instructions: In the E-Gov Web site: *http://www.regulations.gov,* access the Notice of Proposed Rulemaking by typing ''PHMSA–RSPA–2004–19854–0079'' under ''Search Documents'' and clicking ''Go.'' Submit your comment by clicking the yellow bubble or ''Send a Comment or Submission'' then following the instructions.

Identify docket number PHMSA–RSPA–2004–19854 at the beginning of your comments. For comments by mail, please provide two copies. To receive PHMSA's confirmation receipt, include a self-addressed stamped postcard. Internet users may access all comments at *http://www.regulations.gov,* by searching for the docket number.

Note: PHMSA will post all comments without changes or edits to *http://www.regulations.gov* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mike Israni at (202) 366–4571 or by e-mail at *mike.israni@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA is extending, by 30 days, the comment period on the proposed rulemaking published on June 25, 2008 (73 FR 36015) in response to a petition from American Gas Association (AGA) and an informal request from National Association of Pipeline Safety Representatives (NAPSR). AGA requested this extension in order to allow for more time for interested persons to evaluate the proposed rulemaking and submit comments. AGA views the proposed rule as the most extensive rulemaking for gas utilities since the code was codified in the 1970s. AGA notes that there are more than 1,200 natural gas utilities—providing service to more than 70 million Americans—that will be affected by the proposed rulemaking. AGA further notes critical issues that need to be addressed that were not discussed in the Distribution Integrity Management Phase 1 Report which was used to develop the proposed rule. In addition, AGA estimates that the proposed rule's establishment of a plastic pipe database could result in the elimination of the Plastic Pipe Database Committee (PPDC) and the 16,000 data points that have been established over the last eight years. AGA notes that PPDC's scheduled semi-annual meeting on August 26–27, 2008, does not afford PPDC the proper time for their members to discuss the potential impact on their organization, review with their constituents, and submit relevant comments to the docket prior to the September 23, 2008 comment deadline. PHMSA is granting a 30-day comment period extension in an effort to allow for the potentially impacted entities to submit comments and ensure that AGA's concerns are addressed.

Background information on the proposed rule may be found on-line at the following URLs: *http://www.phmsa.dot.gov/pipeline/imp* and *http://primis.phmsa.dot.gov/dimp/.*

Issued in Washington, DC, on September 8, 2008.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. E8–21283 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2008–0149]

RIN 2127–AK25

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: NHTSA is proposing to remove the sunset of a requirement in Federal Motor Vehicle Safety Standard (FMVSS) No. 208, ''Occupant crash protection,'' that a vehicle's lap belt must be lockable to tightly secure a child restraint system. Under FMVSS No. 208, the requirement ceases to apply to designated seating positions that are equipped with a child restraint anchorage system on vehicles manufactured on or after September 1, 2012. This NPRM proposes to amend the standard such that the requirement will continue to apply after September 1, 2012, even when a child restraint anchorage system is present. Data indicate that motorists are still using vehicle belts to attach child restraint systems to a large degree, so the agency is seeking to ensure that lap belts continue to be lockable in vehicles manufactured on or after September 1, 2012.

DATES: You should submit your comments early enough to ensure that the Docket receives them not later than November 12, 2008.

ADDRESSES: You may submit comments (identified by the DOT Docket ID Number above) by any of the following methods:

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

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

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 (65 FR 19477–78).

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

FOR FURTHER INFORMATION CONTACT: Ms. Carla Cuentas, Office of Crashworthiness Standards, Light Duty Vehicle Division (telephone 202–366–4583, fax 202–493–2739). For legal issues, contact Ms. Deirdre Fujita, Office of Chief Counsel (telephone 202–366–2992, fax 202–366–3820). You may send mail to these officials at the National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

On March 5, 1999, NHTSA published a final rule establishing Federal Motor Vehicle Safety Standard (FMVSS) No. 225, ''Child restraint anchorage systems'' (49 CFR 571.225) (64 FR 10786; Docket No. 98–3390, Notice 2). The final rule required motor vehicle manufacturers to install ''LATCH'' child restraint anchorage systems in their vehicles,[1] and required child restraint manufacturers to attach components to child restraints that enable the child restraint to connect to a LATCH system on a vehicle.[2]

The final rule also amended FMVSS No. 208, ''Occupant crash protection'' (49 CFR 571.208), by rescinding the ''lockability'' requirement for vehicles manufactured on or after September 1, 2012, with respect to vehicle seating positions that are equipped with a LATCH system. FMVSS No. 208 requires passenger vehicles to be equipped with seat belts and frontal air bags for the protection of vehicle occupants in crashes. Since September 1995, the standard requires the lap belt to be lockable to tightly secure child restraint systems, without the need to attach a locking clip [3] or any other device to the vehicle's seat belt webbing. This requirement, in S7.1.1.5 of FMVSS No. 208, is called the ''lockability'' requirement.[4] A lockable lap belt is best for securing CRSs if seat belts must be used because it cinches the seat belt tightly and thus allows for a more secure installation.

FMVSS No. 208 requires vehicles to be equipped with an emergency locking retractor (ELR) for Type 2 (lap/shoulder) seat belt assemblies. An ELR is a seat belt retractor that locks only in response to the rapid deceleration of the vehicle or rapid spooling out of the seat belt webbing from the retractor, and increases the comfort of the seat belt assembly as compared to an automatic locking retractor (ALR).[5] To meet the

[1] ''LATCH'' stands for ''*L*ower *A*nchors and *T*ethers for *CH*ildren,'' a term that was developed by child restraint manufacturers and retailers to refer to the standardized child restraint anchorage system required to be installed in vehicles by FMVSS No. 225. The LATCH system is comprised of two lower anchorages and one top tether anchorage. Each lower anchorage includes a rigid round rod or bar onto which the connector of a child restraint system can be attached. The bars are located at the intersection of the vehicle seat cushion and seat back. The top tether anchorage is a fixture to which the tether of a child restraint system can be hooked. FMVSS No. 225 required the 3-point LATCH system at two rear seating positions, and a top tether anchorage at a third rear seating position when a third rear seating position is provided in the vehicle.

[2] The final rule amended FMVSS No. 213, ''Child restraint systems'' (49 CFR 571.213), to require the components on the child restraints, and to set performance requirements that child restraints must meet when attached to a vehicle seat assembly using the LATCH system. The requirements applied to child restraints manufactured on or after September 1, 2002. (This document uses the term ''LATCH-equipped'' to refer to a child restraint system equipped with the components that attach to a vehicle's LATCH system.) In addition, the rule required all child restraints to continue to be capable of being attached to a vehicle by way of the vehicle's belt system.

[3] A locking clip is a flat H-shaped metal clip intended to fasten together belt webbing (lap and shoulder portion) at a sliding latch plate, to prevent the webbing from sliding through.

[4] The procedure for demonstrating compliance with the lockability requirement is in S7.1.1.5(c) of FMVSS No. 208. The lockability requirement applies to vehicles with a gross vehicle weight rating of 4,536 kilograms (10,000 pounds) or less.

[5] An ALR is a seat belt retractor that locks when the continuous motion of spooling the belt out is stopped. From that point, the seat belt cannot be pulled out further without first letting the belt retract into the retractor housing.

lockability requirement, vehicle manufacturers commonly use a switchable seat belt retractor (''ELR/ALR'') that can be converted from an ELR to an ALR. The retractor is converted from an ELR to an ALR by slowly pulling all of the webbing out of the retractor and then letting the retractor wind the webbing back up.

While switchable seat belt retractors and other devices used to lock the lap belts enable child restraints to be installed without use of a locking clip, motorists still found installation of child restraints using a lockable seat belt to be difficult.[6] NHTSA required LATCH so that motorists could use the LATCH system instead of the lockable seat belt to install child restraints. Since the LATCH system was to replace the vehicle belt system as the means of installing child restraints, the agency believed there would be a time when lockable lap belts would no longer be needed at vehicle seating positions equipped with LATCH.

That time was estimated to be in 2012 (64 FR at 10804). In 1999, NHTSA believed that all child restraints ''in use'' would be LATCH-equipped by September 1, 2012, since new child restraints would have then been subject to the requirement to be LATCH-equipped for ten years. We believed that by 2012, child restraints in use would be using the LATCH system and not a lockable vehicle seat belt to attach to the vehicle seat, and so the lockability requirement would no longer be needed in positions with LATCH. Accordingly, the LATCH final rule rescinded the lockability requirement for those positions, in vehicles manufactured on or after September 1, 2012.

II. Current Information Indicates Need for Lockability

Notwithstanding the agency's projections in 1999, current information available to NHTSA indicates a need to retain the lockability requirement of FMVSS No. 208. Current data indicate that many motorists are continuing to use the vehicle's belt system to install child restraints, even when attaching a LATCH-equipped child restraint. To assess consumer response to LATCH, NHTSA conducted a survey[7] from April to October 2005 on the types of restraint systems being used to keep children safe while riding in passenger vehicles, i.e., whether drivers of vehicles with LATCH were using LATCH to secure their LATCH-equipped child restraints to the vehicle, and if so, whether they were properly installing the restraints. The survey found that in 13 percent of the LATCH-equipped vehicles in which there was a child restraint, the restraint was placed in a seat position not equipped with lower anchors (the vehicle seat belt was used to secure the restraint to the vehicle). Among the 87 percent who placed the child restraint at a position equipped with lower anchors, only 60 percent used the lower attachments to secure the restraint to the vehicle.[8] While the LATCH survey found that consumers who have experience with LATCH like the system and that LATCH is helping to reduce the insecure installation of child restraints, the report also indicated that proper use of LATCH is not inherently evident to parents. Many parents do not use LATCH; they may not know about it or understand its importance, or may have difficulties using it.

In light of the findings of the LATCH survey, we are reassessing the assumption made in the 1999 LATCH final rule that by 2012 LATCH will replace seat belts as the means of attaching child restraints. The agency held a February 8, 2007, public meeting discussing the LATCH survey and related issues,[9] including whether the lockability requirement should be retained given the survey results showing that vehicle belts are still being widely used to attach child restraints. In response to the LATCH survey and as discussed at the public meeting, NHTSA has initiated a comprehensive consumer education campaign about LATCH. However, since the LATCH survey indicated that consumers are drawn to using the vehicle seat belt system to attach child restraints even when LATCH is available, we tentatively conclude that the lockability requirement should not sunset in 2012 as scheduled. We tentatively conclude that for consumers who use the lap/shoulder belts, the belt system should be made as easy-to-use as reasonably possible in attaching their child restraints, and that extending the lockability requirement is the most reasonable way to make the belt system easy-to-use.[10] We are issuing this NPRM to propose keeping the lockability requirement in effect past September 1, 2012, and to provide notice to vehicle manufacturers that the lockability requirement might not sunset in 2012 and that product plans may have to be adjusted.

This decision to proceed with an NPRM is supported by other information received by the agency. On January 22, 2007, SafetyBeltSafe U.S.A. (SafetyBeltSafe) and Safe Ride News petitioned the agency to remove the sunset clause in the lockability requirement.[11] The petitioners believed that rescission of the requirement in 2012 could have ''deleterious effects on the safety of children.'' According to the petitioners, parents and caregivers of special needs children would like the continuation of the lockability requirement because the belt provides a way of restraining children who find it difficult to sit still or upright. According to the petitioners, the parents and caregivers believe that the lockability feature of lap belts prevents these children from manipulating the seat belt or introducing slack into the belt. The petitioners also stated there are child restraints recommended for children weighing more than 40 pounds and that a lockable lap belt is needed to secure these systems to the vehicle, because such a child restraint may exceed a maximum 40 to 48 pound weight limit for LATCH set by some vehicle manufacturers. SafetyBeltSafe and Safe Ride News also believed that the lockability feature of ELR/ALR retractors can be used to lock the unused belt when the CRS is anchored with LATCH so that children cannot

[6] Even with lockability, the vehicle belt system still depended on the user knowing enough and making the effort to manipulate the belt system. Also, the vehicle belt must be routed correctly through the child restraint, which may not be an easy task in all cases. Further, the lockability requirement did not address the effects of forward-mounted seat belt anchorages on slightly reduced child restraint effectiveness. 64 FR at 10792.

[7] Decina, L.E., Lococo, K.H., and Doyle, C.T., *Child Restraint Use Survey: LATCH Use and Misuse,* DOT HS 810 679, National Highway Traffic Safety Administration, Washington, DC, 2006. *http://www.nhtsa.dot.gov/staticfiles/DOT/NHTSA/Communication%20&%20Consumer%20Information/Articles/Associated%20Files/LATCH_Report_12–2006.pdf*

[8] Of the child restraints located in a seating position equipped with an upper tether anchor, 55 percent were attached to the vehicle using the upper tether. 61 percent of upper tether nonusers and 55 percent of lower attachment nonusers cited their lack of knowledge—not knowing what the anchorages were, that they were available in the vehicle, the importance of using them, or how to use them properly—as the reason for not using them.

[9] 72 FR 3103; Docket NHTSA–2007–26833. Following up on the findings of the LATCH survey, NHTSA held the public meeting to bring together child restraint and vehicle manufacturers, retailers, technicians, researchers and consumer groups to discuss ways to improve the design and increase the use of child restraint systems. The meeting focused on improving LATCH system designs and educating the public about LATCH. A transcript of the meeting can be found in Docket No. NHTSA–07–26833–025. See page 28 of meeting transcript.

[10] We do not believe that a viable alternative to lockable lap belts is a return to locking clips. When locking clips were prevalent (before the lockability requirement) a study found that locking clips were misused or not used in 72% of the cases observed. NHTSA, Observed Patterns of Misuse of Child Safety Seats, Traffic Tech, No. 133, Washington, DC, September 1996.

[11] A ''Supporters of Lockability Petition'' signed by 177 supporters was attached to the petition.

pull the shoulder portion of the belt out and play with it inappropriately (e.g., wrapping it around the neck and activating the retractor unintentionally). The petitioners also stated that a lockable lap belt could be used where the vehicle LATCH anchorage locations are not compatible with the child restraint (i.e., where the anchorages are deep in the seat cushion or above the seat bight).[12] The agency granted the petition on June 20, 2007. Several comments made in the context of the February 8, 2007, public meeting also supported retaining the lockability requirement past September 1, 2012 (Advocates for Highway and Auto Safety, NHTSA–2006–26735–0003; Ms. Julie Robbins, Chicco USA, transcript page 219 of the transcript, supra.).

III. Proposed Effective Date

NHTSA proposes that a final rule on this rulemaking, assuming one is issued, would be effective 120 days after publication of the rule in the **Federal Register**. The effective date is the date on which the **Federal Register** would be amended to reflect the changes made by the final rule.

IV. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866. It is not considered to be significant under E.O. 12866 or the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). This NPRM proposes to remove the sunset of a requirement which is currently in effect. The agency is seeking to ensure that lap belts continue to be lockable in vehicles manufactured on or after September 1, 2012. The rulemaking would not affect current costs of manufacturing lap belt systems. The minimal impacts of today's amendment do not warrant preparation of a regulatory evaluation.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*., NHTSA has evaluated the effects of this action on small entities. I hereby certify that this proposed rule would not have a significant impact on a substantial number of small entities. The NPRM would affect motor vehicle manufacturers, multistage manufacturers and alterers, but the entities that qualify as small businesses would not be significantly affected by this rulemaking because they are already required to comply with the lockability requirements and have been since 1995. This NPRM proposes to remove the sunset of the requirement to ensure that lap belts continue to be lockable in vehicles manufactured on or after September 1, 2012. The rulemaking would not affect current costs of manufacturing lap belt systems.

Executive Order 13132

NHTSA has examined today's NPRM pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have federalism implications because a final rule, if issued, would not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Further, no consultation is needed to discuss the preemptive effect of today's rulemaking. NHTSA rules can have preemptive effect in at least two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemptive provision: ''When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter.'' 49 U.S.C. 30103(b)(1). It is this statutory command that preempts State law, not today's rulemaking, so consultation would be inappropriate.

Second, in addition to the express preemption noted above, the Supreme Court has also recognized that State requirements imposed on motor vehicle manufacturers, including sanctions imposed by State tort law, can stand as an obstacle to the accomplishment and execution of a NHTSA safety standard. When such a conflict is discerned, the Supremacy Clause of the Constitution makes their State requirements unenforceable. See *Geier* v. *American Honda Motor Co.,* 529 U.S. 861 (2000). NHTSA has not discerned any conflict in today's rulemaking. However, in part because such conflicts can arise in varied contexts, the agency cannot rule out the possibility that such a conflict may become clear through subsequent experience with the proposed standard and test regime. NHTSA may opine on such conflicts in the future, if warranted. See *Id*. at 883–86.

National Environmental Policy Act

NHTSA has analyzed this NPRM for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This NPRM would not establish any new information collection requirements.

National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' There are no voluntary consensus standards pertaining to the lockability requirements addressed today.

Civil Justice Reform

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden

[12] The petitioners also suggested that the lockability feature of lap belts can be used for purposes such as restraining equipment or other objects to the vehicle seat or restraining arrestees transported in police vehicles. The agency is not issuing this NPRM based on those suggestions. The petition also argued that in vehicle rear seats with three designated seating positions (three sets of lap/shoulder belts) and only two seats of LATCH, manufacturers might move lower anchors inboard ''to lessen exposure to intrusion in side impacts.'' The petitioners believed that in such a vehicle, to accommodate three child restraints in the rear seat the belts would have to be used and thus lockability needed. No data was presented to support the supposition that LATCH anchors might move inboard or on the frequency of the occurrence of the described situation (three child restraints simultaneously accommodated in the second row seat). The agency does not consider this suggestion as a petition for rulemaking or as part of the petition for rulemaking addressed by this NPRM.

reduction; (4) clearly 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. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this proposed rule is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). This NPRM would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually.

Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. This rulemaking is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866.

Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to E.O. 13211.

Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

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).

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, and Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended by:

A. Revising the introductory paragraph of S7.1.1.5, and

B. Removing S7.1.1.5(d).

The amendments read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S7.1.1.5 Passenger cars, and trucks, buses, and multipurpose passenger vehicles with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 1995 shall meet the requirements of S7.1.1.5(a), S7.1.1.5(b) and S7.1.1.5(c).

* * * * *

Issued on September 5, 2008.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E8–21026 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 402

[FWS–R9–ES–2008–0093]

RIN 1018–AT50

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 402

[0808011023–81048–01]

RIN 0618–AX15

Interagency Cooperation Under the Endangered Species Act

AGENCIES: U.S. Fish and Wildlife Service, Interior; National Marine Fisheries Service, Commerce.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The United States Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (collectively, ''we'') are extending the comment period for proposed regulations governing interagency cooperation under the Endangered Species Act of 1973, as amended.

DATES: We must receive your comments by October 14, 2008 to ensure their full consideration in the final decision on this proposal.

ADDRESSES: Submit your comments or materials concerning this proposed rule in one of the following ways:

(1) Through the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions on the Web site for submitting comments.

(2) By U.S. mail or hand-delivery to Public Comment Processing, Attention: 1018–AT50, Division of Policy and

Directives Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 222, Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION CONTACT: Office of the Assistant Secretary for Fish and Wildlife and Parks, 1849 C Street, NW., Washington, DC 20240; telephone: 202–208–4416; or James H. Lecky, Director, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; telephone: 301–713–2332.

SUPPLEMENTARY INFORMATION: The United States Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (collectively, ''we'') published a proposed rule on Interagency Cooperation under the Endangered Species Act on August 15, 2008 (73 FR 47868). The comment period for this proposed rule will end on September 15, 2008. We have received a number of written requests to extend the public comment period. We have given consideration to these requests and believe it is appropriate to provide an additional 30-day period for comment on the proposed regulation. We are therefore extending the comment period for an additional 30 days.

If you have already commented on the proposed rule you do not need to resend your comment. We will consider all comments received from the date of publication of the proposed rule through the close of the extended comment period.

Dated: September 5, 2008.

Lyle Laverty,

Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior.

Dated: September 5, 2008.

Samuel D. Rauch,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

[FR Doc. E8–21414 Filed 9–10–08; 4:15 pm]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 73, No. 178
Friday, September 12, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: Thursday, October 2, 2008 (9 a.m. to 3 p.m., times may be adjusted).

Location: National Press Club Ballroom, 529 14th Street, NW., Washington, DC 20045.

Please note that this is the anticipated agenda and is subject to change.

Keynote: Henrietta H. Fore, USAID Administrator and Director of United States Foreign Assistance, will speak on key issues before USAID and the foreign assistance community including the High Level Forum in Accra on Aid Effectiveness and the United Nations General Assemby. She will also address the draft recommendations of the ACVFA Subcommittee on Public Outreach.

American Awareness of U.S. Foreign Assistance: The ACVFA's Subcommittee on Public Outreach will provide its draft recommendations to the full Committee and the general public. A respondent will provide feedback to the draft.

The meeting is free and open to the public. Persons wishing to attend the meeting can register online at *http://www.usaid.gov/about_usaid/acvfa* or with Jocelyn Rowe at *jrowe@usaid.gov* or 202–712–4002.

Dated: September 8, 2008.

Jocelyn M. Rowe,

Executive Director, Advisory Committee on Voluntary Foreign Aid (ACVFA), U.S. Agency for International Development.

[FR Doc. E8–21273 Filed 9–11–08; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–08–5101–ER–H048; ORORE–065375; IDI–036029; HAG–08–0199]

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for the Boardman-Hemingway 500 kilovolt (kV) Transmission Line Project (Project) in Idaho and Oregon and Possible Land Use Plan Amendments

AGENCIES: Bureau of Land Management, DOI; and Forest Service, USDA.

ACTION: Notice of Intent to prepare an Environmental Impact Statement, possible land use plan amendments, and notice of public scoping meetings.

SUMMARY: Pursuant to section 102 (2)(C) of the National Environmental Policy Act (NEPA) of 1969 and in response to right-of-way (ROW) applications filed by Idaho Power Company, the Bureau of Land Management (BLM), Vale District Office, and U.S. Forest Service (USFS), Wallowa-Whitman National Forest announce their intent to prepare an EIS and conduct public scoping meetings. Idaho Power Company proposes to construct, operate, and maintain a single circuit 500 kV overhead electric transmission line and appurtenant facilities beginning near Boardman, Oregon, and terminating near Melba, Idaho. The proposed route roughly parallels Interstate 84 and is approximately 278 miles long. Authorization of this Project may require the amendment of USFS or BLM land use plans.

DATES: This notice initiates the public scoping process as required by NEPA. The BLM and USFS request that public comments be submitted by November 14, 2008. To provide the public an opportunity to review project information, public meetings are planned in Idaho and Oregon in communities near the proposed route. The following communities are being considered for meeting locations: Ontario, Baker City, La Grande, Pendleton, Pilot Rock, Hermiston, and Boardman, Oregon; Marsing and Homedale, Idaho. The scoping meetings will be conducted in an ''open house'' format. Staff from the BLM, USFS, Oregon Department of Energy, Idaho Power Company, and environmental contractors will be available to answer questions and explain their respective roles and responsibilities. The BLM and USFS will announce the exact meeting dates, times, and locations at least 15 days prior to the event. Announcements will be made by news release, individual postcard mailings, and posting on the Project Web site (*http://www.boardmantohemingway.com*).

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

- *Web site: http://www.boardmantohemingway.com.*
- *E-mail: B2HComments@blm.gov.*
- *Mail:* Bureau of Land Management, Vale District Office, 100 Oregon Street, Vale, Oregon, 97918, Attention: Lucas Lucero.

Documents pertinent to the ROW application are on file and may be examined at:

- Bureau of Land Management, Vale District Office, 100 Oregon Street, Vale, Oregon, 97918.
- U.S. Forest Service, Wallowa-Whitman Supervisor's Office, 1550 Dewey Avenue, Baker City, Oregon, 97814.
- U.S. Forest Service, La Grande Ranger District, 3502 Highway 30, La Grande Oregon, 97850.

SUPPLEMENTARY INFORMATION: Idaho Power Company has submitted ROW applications to construct, operate, and maintain a 500kV single circuit overhead electric transmission line on Federal lands. The purpose and need of the Project is to relieve existing congestion, capacity, and reliability constraints and allow for the delivery of up to 1500 megawatts (MW) of additional energy to target service areas principally in Idaho and Utah. The proposed project begins near Boardman, Oregon, just north of the Boardman Power Plant, at the newly proposed Boardman Substation. The Project route continues southeast to interconnect with the Hemingway Substation in southeastern Oregon. The Hemingway Substation is being planned and built separately from this Project and will be built regardless of the outcome of this Project so the Hemingway Substation will not be analyzed in this EIS. The Project route then proceeds southeast and terminates near Melba, Idaho, at the newly proposed Sand Hollow

Substation. The proposed route is approximately 278 miles long. The requested ROW width is 250 feet. Idaho Power Company proposes to utilize steel lattice type structures approximately 150 feet in height with average spans between towers of 1200 feet. Access roads would be approximately 14 to 20 feet wide. Additional temporary work space would also be required during construction. Approximately 195 miles or 70 percent of the route is privately owned; 45 miles or 16 percent is administered by the BLM; 27 miles or 10 percent is administered by the USFS; and 11 miles or 4 percent is administered by the State of Oregon or other jurisdictions.

The route generally parallels Interstate 84 and other existing overhead and underground utilities and roadways. The proposed route also makes use of existing or proposed utility corridors on Federal lands. The BLM is the designated lead Federal agency for preparation of the EIS. Cooperating agencies identified at this time include: USFS, Wallowa-Whitman National Forest, and the State of Oregon Department of Energy. Other agencies will be invited to participate as cooperating agencies. The EIS will analyze the proposed action and a reasonable range of route alternatives. The BLM and USFS encourage you to send your comments concerning the Project as currently proposed, feasible alternative locations, possible mitigation measures, and any other information relevant to the Project. Authorization of the Project may require amendments to one or more of the following BLM land use plans: Baker Resource Management Plan, Southeastern Oregon Resource Management Plan, Owyhee Resource Management Plan, Cascade Resource Management Plan, and one or more of the following USFS Forest Plans: Wallowa-Whitman Forest Land and Resource Management Plan. This notice serves to notify the public of these potential land use plan amendments as required by 43 CFR 1610.2 (c) and 36 CFR 219.7(c). If a land use plan amendment is determined to be required, the BLM and/or USFS will integrate the land use planning process into the NEPA analysis for this Project. Public input is important to ensure project-specific issues are evaluated prior to the agencies making a decision. Comments submitted timely will be considered in the NEPA process. Comments received after November 14, 2008 will be considered to the extent feasible. Please note that public comments and information submitted including names, street addresses, and e-mail addresses of respondents will be available for public review and disclosure at the above address during normal business hours (7:45 a.m. to 4:30 p.m.) Monday through Friday, except for Federal holidays. 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. Periodic project updates during preparation of the EIS will be provided to the public through additional informational meetings, newsletters, postcard notices, or through the project Web site.

FOR FURTHER INFORMATION CONTACT: For further information or to have your name added or removed from the project mailing list, contact Lucas Lucero, BLM Project Manager, (702) 515–5059 or *Lucas_Lucero@blm.gov.*

Dated: September 8, 2008.

David R. Henderson,

District Manager.

Dated: September 8, 2008.

Steven Ellis,

Forest Supervisor.

[FR Doc. E8–21285 Filed 9–11–08; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF AGRICULTURE

Forest Service

Huron-Manistee National Forests, Michigan, White Pines Wind Farm Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service has accepted an application for a special use authorization from White Pines Wind Farm LLC for the installation and operation of 20 to 28 wind turbines and associated infrastructure to provide between 50 and 70 megawatts (MW) of wind energy on National Forest System (NFS) lands managed by the Huron-Manistee National Forests. The White Pines Wind Farm Project (the Project) would occupy approximately 75 acres of NFS land within a Project Area of about 10,000 acres on the Cadillac-Manistee Ranger District over its proposed 30-year life.

DATES: Comments concerning the scope of the analysis must be received by October 12, 2008. The draft environmental impact statement is expected May 2009 and the final environmental impact statement is expected December 2009.

ADDRESSES: Send written comments to Patricia O'Connell, Interdisciplinary Team Leader, Cadillac-Manistee Ranger District, Huron-Manistee National Forests, 412 Red Apple Road, Manistee, MI 49660; fax: 231–723–8642. Send electronic comments to: *comments-eastern-huron-manistee-manistee@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Patricia O'Connell, Cadillac-Manistee Ranger District, Huron-Manistee National Forests; telephone: 231–723–2211, ext. 3119; fax: 231–723–8642. See address above under **ADDRESSES**. Copies of documents may be requested at the same address. Another means of obtaining information is to visit the Forest Web page at *http://www.fs.fed.us/r9/hmnf* then click on ''Project and Planning,'' then ''Cadillac and Manistee Projects,'' and then ''White Pines Wind Farm Project.''

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of this project is to respond to an application for a special use authorization submitted by White Pines Wind Farm LLC to develop a wind farm on National Forest System lands within the Huron-Manistee National Forests. White Pines Wind Farm LLC proposes to generate 50 to 70 MW of wind energy by constructing and operating between 20 and 28 wind turbines, in proximity to existing distribution facilities (utility grid), in an area with an adequate wind resource on National Forest System lands with consolidated ownership. The proposed project is needed to help meet Michigan's and the region's growing demand for reliable sources of clean, cost-effective, renewable energy. The project is consistent with the Huron-Manistee National Forests' Land and Resource Management Plan and with Forest Service objectives for management of special uses on National Forest System lands.

Proposed Action

White Pines is proposing to install and operate the Project on land located mostly within the boundaries of the Huron-Manistee National Forests. The Project proposes construction of the wind turbines and associated infrastructure in April 2010, with an anticipated in-service date of December

2010, and operation of the facility for an estimated service life of 30 years.

The vast majority of the Project's facilities and activities would occur on National Forest System lands on the Cadillac-Manistee Ranger District of the Forest. A portion of the Project's transmission line route would be located off of National Forest System lands. In addition, it would be necessary to expand the public road system to support development of the Project.

The Project would consist of the construction, installation, operation, and maintenance of 28 new state-of-the-art 2.5 MW wind turbines, which would have a combined power generating capacity of 70 MW (at peak capacity). The Project is proposing to use the Clipper Class II Liberty Series 2.5 MW Wind Turbine, which are manufactured domestically in Iowa. It is feasible that a higher megawatt turbine could become available and be utilized for this Project. If available in the future, turbines with a larger capacity would be located within the existing array plan footprint and would not affect the overall maximum Project power generating capacity of 70 MW.

Each turbine is comprised of three components—the tower, the nacelle, and the rotor blades. The turbines use a tubular steel tower, with a hub height of 262 feet. The tower is topped by the nacelle, which houses the turbine's mechanical components. The rotor, mounted on the nacelle, consists of three fiberglass blades 153 feet in length and has a rotor diameter of 315 feet. The total height of the wind turbines would be approximately 420 feet above a concrete foundation base. Each turbine would be anchored to a 60 foot diameter concrete foundation of which a 20-foot diameter pedestal would be visible above ground. A pad mounted step-up transformer would be located on each concrete foundation base to increase the voltage from each wind turbine generator to 34.5 kilovolt (kV). The area of the total disturbed footprint per turbine, including clearing and grubbing of vegetation, would have a radius of approximately 125 feet, for an aggregate footprint of about 1.1 acres per wind turbine foundation during construction. Subsequent to construction, the turbine footprint area would be reduced to less than 0.2 acres.

In addition to the turbines, the Project would consist of the following components:

- Approximately 9 miles of road reconstruction to existing roads (3 miles of Forest Service roads and 6 miles of County roads) and approximately 5 miles of new road construction would occur on NFS lands. During construction of the Project, these roads would be widened and cleared to approximately 40 feet to allow for equipment delivery and crane transport between turbine locations. However, to allow for the installation of the collection system and drainage, some of these roads may be cleared to approximately 80 feet. Road reclamation and revegetation would be performed at the end of construction to reduce access roads to standards mutually agreed upon with the appropriate road agencies (*i.e.*, Forest Service and Mason County). Roads would remain accessible, to the extent practicable, to the public. The new roads for the Project would be permanent roads added to the road system on NFS lands.
- Installation of over 40 miles of 34.5 kV underground electrical interconnections between turbines to collect and deliver electricity to a new substation. Where practicable, the underground electrical collection system would be installed along the same right-of-way (RoW) corridor as the access roads. In addition, fiber optic communication lines would be installed along with the electrical collection system to monitor the operation of the wind farm. No additional clearing beyond that described for the roadway clearing would be required for the installation of the electrical collection system and fiber optic lines between turbines.
- A step-up transformer at each turbine location plus one transformer for the electrical substation site. Each step-up transformer would be located on the concrete foundation base.
- An electrical substation on a 5-acre parcel would be constructed on NFS lands within the Project Area to step up the electrical collection system voltage to the existing local transmission line voltage.
- An above ground, 138 kV transmission line to connect the proposed wind farm substation to the existing Pere Marquette-Stronach 138-kV transmission line running north-south and located east of the Project Area. The transmission line would have a RoW corridor of approximately 150 feet. Approximately 3 miles of the transmission line would be located on NFS lands and approximately 2 miles of the line would cross private lands.
- Three 199-foot tall meteorological monitoring towers have been constructed and are currently collecting data within the Project Area boundary. At the completion of the Project, 1 to 3 meteorological towers would remain within the Project Area during the life of the Project.
- Three temporary staging areas would be located within the Project Area for construction-related temporary facilities, which include a concrete batch plant and cleared areas for construction parking, equipment laydown, and construction management trailers. These areas, totaling approximately 10 acres, would be restored and revegetated upon completion of construction.
- A second electrical substation would be needed at the end of the 138 kV transmission line to tie into the existing 138 kV overhead transmission line. This substation would be located on private land outside of the Project Area.

In addition to these facilities, the Project development process would also involve upgrading local transportation infrastructure to accommodate the expected size of construction materials. At this time, it is anticipated that the infrastructure upgrades would be minor in scale (e.g., increased turning radius at road intersections).

The Project area boundary encompasses a total of approximately 10,024 acres, of which 8,600 acres are within the NFS lands within the Cadillac-Manistee Ranger District. The Project components described above would be sited within this Project Area boundary and would occupy a permanent footprint of approximately 75 acres of NFS lands. Consideration of species management and habitat, water resources, cultural resources, visuals, public access and safety, maximization of existing facilities, and the layout of buried and above ground facilities have been incorporated as part of the Project design to the extent practicable and would be evaluated through the National Environmental Policy Act (NEPA) site-specific environmental analysis process.

Responsible Official

Barry Paulson, Forest Supervisor, Huron-Manistee National Forests, 1755 S. Mitchell Street, Cadillac, MI 49601.

Nature of Decision To Be Made

White Pines Wind Farm LLC has submitted an application to the Forest Service for a Special Use authorization seeking approval to occupy and use NFS lands for the purpose of constructing and operating a wind power facility on the Huron-Manistee National Forests. The decision to be made is whether to grant the authorization for the construction and operation activities as proposed, or as modified by an alternative to the proposed action, or to deny granting the authorization.

Scoping Process

The Forest Service plans to scope for information by contacting persons and organizations interested or potentially affected by the proposed action by using mailings, public announcements, and personal contacts. In addition, two separate public scoping meetings will be held to collect public input on the scope of this project:

Scoping Meeting #1: September 30, 2008, at the Ramada Inn, 4079 W. U.S. 10, Ludington, MI. An open house format will be used. The public is welcome between 4 p.m. and 7 p.m.

Scoping Meeting #2: October 1, 2008, at the Days Inn, 1462 U.S. Hwy. 31, Manistee, MI. An open house format will be used. The public is welcome between 4 p.m. and 7 p.m.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement. The primary purpose of scoping is to gather public comments, issues, and concerns regarding the proposed action. We are especially interested in information that might identify a specific undesired result of implementing the proposed action. Comments will be used to help formulate alternatives to the proposed action. Please make your written comments as specific as possible as they relate to the proposed action, and include your name, address, and if possible, telephone number and e-mail address. Comments received in response to this solicitation, 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 decisions under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any persons may request the agency to withhold a submission from the public record by showing how the FOIA (Freedom of Information Act) 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, should the request be denied, return the submission and notify the requester that the comments may be resubmitted with or without name and address within 90 days.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days following the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. The Forest Service believes, at this early stage, that it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21.

Dated: August 22, 2008.

Barry Paulson,

Forest Supervisor.

[FR Doc. E8–20764 Filed 9–11–08; 8:45 am]

BILLING CODE 3410–11–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from Procurement List.

SUMMARY: The Committee is proposing to delete products previously furnished by nonprofit agencies employing people who are blind or severely disabled.

Comments Must be Received On or Before: October 12, 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@AbilityOne.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.

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 will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in allowing other small entities to furnish the products 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 proposed for deletion from the Procurement List.

End of Certification

The following products are proposed for deletion from the Procurement List:

Products

NSN: 7045–01–391–0947—Tape, Electronic Data Processing.
NSN: 7045–01–364–2466—Tape, Electronic Data Processing.
NSN: 7045–01–354–3517—Tape, Electronic Data Processing.
NSN: 7045–01–247–6020—CRT and Keyboard Cleaner.
NSN: 7045–01–438–6297—Data Cartridge, Travan.
NPA: North Central Sight Services, Inc., Williamsport, PA.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E8–21307 Filed 9–11–08; 8:45 am]

BILLING CODE 6353–01–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 Procurement List.

SUMMARY: This action adds to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities previously furnished by such agencies.

Effective Date: October 12, 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@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Addition

On July 18, 2008, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (73 FR 41313) of proposed addition 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 may result in allowing other 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: Mailroom Operations, Customs and Border Protection Laguna Niguel Facilities, 24000 Avila Road, Laguna Niguel, CA.
NPA: Landmark Services, Inc., Santa Ana, CA.
Contracting Activity: Bureau of Customs and Border Protection, National Acquisition Center.

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E8–21308 Filed 9–11–08; 8:45 am]

BILLING CODE 6353–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Sub-Saharan Africa Advisory Committee (SAAC) of the Export-Import Bank of the United States (Export-Import Bank)

Summary: The Sub-Saharan Africa Advisory Committee was established by Public Law 105–121, November 26, 1997, to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion of the Bank's financial commitments in Sub-Saharan Africa under the loan, guarantee and insurance programs of the Bank. Further, the committee shall make recommendations on how the Bank can facilitate greater support by U.S. commercial banks for trade with Sub-Saharan Africa.

Time and Place: October 8, 2008 at 2 p.m. to 5 p.m. The meeting will be held at the Export-Import Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

Agenda: Discussion will focus on U.S. Ex-Im Bank's Medium-Term Delegated Authority, Export Credit Agency (ECA) Competitiveness, Analysis of ECA financing in sub-Saharan Africa, application of the local content policy as well as on-going Business Development efforts and discussion relative to the 2008 SAAC Report to Congress.

Public Participation: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to October 8, 2008, Barbara Ransom, Room 1241, 811 Vermont Avenue, NW., Washington, DC 20571, *Voice:* (202) 565–3525 or TDD (202) 565–3377.

Further Information: For further information, contact Barbara Ransom, Room 1241, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3525.

Kamil Cook,

Deputy General Counsel.

[FR Doc. E8–21163 Filed 9–11–08; 8:45 am]

BILLING CODE 6690–01–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

NIST Blue Ribbon Commission on Management and Safety

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the NIST Blue Ribbon Commission on Management and Safety, National Institute of Standards and Technology (NIST) will meet Wednesday, September 17, from 9 a.m.–5 p.m. on the NIST campus in Gaithersburg, MD. This notice is in follow-up to the preliminary notice of a public meeting by the Commission on August 15, 2008, (Ref. **Federal Register** Notice: August 15, 2008 (Volume 73, Number 159, pages 47882–47883). The Blue Ribbon Commission on Management and Safety is composed of 7 members appointed by the Secretary of Commerce who are eminent in one or more of the following areas:

• Management and organizational structure;

- Training and human resources operations;
- Laboratory management and safety;
- Hazardous materials safety;
- Emergency medical response;
- Environmental safety;
- Environmental remediation; and
- Security for hazardous materials.

The purpose of this meeting is to review and ultimately provide advice to the Department of Commerce on whether (a) The training, safety, security, and response protocols, (b) the implementation of those protocols and internal controls, and (c) the management structure at NIST are appropriate to ensure safe operations of all NIST programs. The agenda for this meeting will focus on NIST safety and management structure as well as a discussion of the findings from recent safety audits and investigations. The agenda may change to accommodate Commission business.

DATES: The meeting will convene on September 17, 2008 at 9 a.m. and will adjourn at 5 p.m

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Gaithersburg, Maryland 20899. To enable NIST to make arrangements to admit visitors to the NIST campus, anyone wishing to attend this meeting should submit name, e-mail address and phone number to Mary Lou Norris (*marylou.norris@nist.gov*) no later than September 15, 2008.

FOR FURTHER INFORMATION CONTACT: Mary Lou Norris, National Institute of Standards and Technology, Building 101, MS 1071, 100 Bureau Drive, Gaithersburg, MD, 20899; telephone: (301) 975–2002; e-mail: *marylou.norris@nist.gov*.

Dated: September 8, 2008.

James M. Turner,

Deputy Director.

[FR Doc. E8–21340 Filed 9–11–08; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XJ52

Marine Mammals; File No. 13388

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Sea World, Inc., 9205 South Park Center Loop, Suite 400, Orlando, FL 32819 [Brad Andrews, Responsible Party] has been issued a permit to import one beluga whale (*Delphinapterus leucas*) for public display.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Kate Swails, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On May 20, 2008, notice was published in the **Federal Register** (73 FR 29111) that a request for a public display permit to import one male adult beluga whale from the Vancouver Aquarium Marine Science Center, British Columbia, Canada to Sea World of Texas, had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: September 8, 2008.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–21348 Filed 9–11–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XJ54

Marine Mammals; File No. 13428

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Niladri Basu, Ph.D., Department of Environmental Health Sciences, University of Michigan, 109 South Observatory Road, Ann Arbor, MI 48109–2029, has been issued a scientific research permit to import marine mammal specimens for scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9300; fax (978)281–9394.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Kate Swails, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On June 12, 2008, notice was published in the **Federal Register** (73 FR 33399) that a request for a scientific research permit had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The permit authorizes the importation of brain tissues from 40 baikal seals (*Phoca sibirica*). These samples were collected in 2005 under a joint agreement between the East-Siberian Research and Production Fisheries Center (Russia) and the Center for Marine Environmental Studies (Japan). The purpose of this study is to determine: (1) the types and amounts of heavy metals that baikal seals accumulate in specific brain regions; and (2) whether these exposures are a neurotoxicological concern by using novel biomarker technologies. This permit will expire one year from date of issuance.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: September 8, 2008.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–21349 Filed 9–11–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XI15

Small Takes of Marine Mammals Incidental to Specified Activities; Marine Geophysical Survey in the Gulf of Alaska, September 2008

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

ACTION: Notice; issuance of incidental take authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to Lamont-Doherty Earth Observatory (L-DEO), a part of Columbia University, for the take of marine mammals, by Level B harassment only, incidental to conducting a marine seismic survey in the Gulf of Alaska during September, 2008.

DATES: Effective September 10, 2008, through October 31, 2008.

ADDRESSES: A copy of the IHA and the application are available by writing to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225 or by telephoning the contact listed here. A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Ken Hollingshead, Office of Protected Resources, NMFS, (301) 713–2289.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (I) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either approve or deny the authorization.

Summary of Request

On April 10, 2008, NMFS received an application from L-DEO for the taking, by Level B harassment only, of small numbers of 20 species of marine mammals incidental to conducting, under a cooperative agreement with the National Science Foundation (NSF), a marine seismic survey in the Gulf of Alaska during September, 2008. The purpose of the research program was outlined in NMFS' notice of the proposed IHA (73 FR 45407, August 5, 2008).

Description of the Activity

The seismic survey will involve one source vessel, the R/V *Marcus G. Langseth* (*Langseth*), which will occur offshore from the Saint Elias Mountains. The *Langseth* will deploy an array of 36 airguns (6,600 in^3) as an energy source and, at times, a receiving system consisting of a 8–km (5–mi) towed hydrophone streamer and/or Ocean Bottom Seismometers (OBSs). The streamer will be towed at a depth of 7 m (23 ft). The OBSs are housed in 43–cm diameter glass spheres that have a gross weight of approximately 45 kg (99 lbs). As the airgun array is towed along the survey lines, the hydrophone streamer and/or OBSs will receive the returning acoustic signals and transfer the data to the on-board processing system.

The *Langseth* is expected to depart Astoria, Oregon on approximately September 10, 2008 for the study area in the GOA (see Figure 1 of L-DEO's application). The airgun array is expected to operate for a total of ~200–250 hours. With OBS deployment and retrieval, the length of the survey will be ~18 days. The overall area within which the STEEP survey will take place is located at ~58–60.5° N, 138–146° W (see Figure 1 of L-DEO's application). The proposed survey will be conducted in water depths from <100 m to >3,000 m (<330 to >9,840 ft) entirely within the territorial waters and Exclusive Economic Zone (EEZ) of the United States. The exact dates of the activities depend upon logistics, as well as weather conditions and/or the need to repeat some lines if data quality is substandard.

The primary marine seismic survey will consist of two long transect lines that will cross each other (Figure 1 of L-DEO's application). For the longer line paralleling the shoreline, a seismic reflection-refraction profile will be shot using the hydrophone streamer as well as 25 OBSs deployed on the seafloor and 60 Texan seismometers deployed on land across the toe of the Bering Glacier. A reflection-refraction profile will also be obtained from the slightly shorter line that is perpendicular to the shoreline using the hydrophone streamer as well as 17 OBSs; this line will be shot twice if time allows. Both of these lines will have a shot spacing

of 50 m (164 ft, 20 seconds); if the onshore-offshore line is shot twice, the shot interval used during the second run will be 150 m (492 ft, 60 s). During the reflection-refraction profiling, the airgun array will be towed at a depth of 9 m. In addition, two reflection-only 2–dimensional (2–D) seismic grids will be shot; the western grid is located approximately 150 km (93 mi) from shore whereas the eastern grid is located nearshore (see Figure 1 in L-DEO's application). The shot spacing for these grids will be 50 m (164 ft) and the airgun array will be towed at a depth of 9 m. No OBSs will be deployed during reflection-only profiling. There will be additional operations associated with equipment testing, startup, line changes, and repeat coverage of any areas where initial data quality is sub-standard. In L-DEO's calculations, 25 percent has been added to the line total for those additional operations.

The planned seismic survey (excluding the 25 percent contingency) will consist of 1,909 km of survey lines including turns (see Figure 1 in L-DEO's application). Most of this effort (923 km or 574 mi) will take place in intermediate water depths of 100–1,000 m and in water depths >1,000 m deep (812 km or 504 mi), and a smaller portion (174 km or 108 mi) will take place in water <100 m deep.

All planned geophysical data acquisition activities will be conducted by L-DEO with on-board assistance by the scientists who have proposed the study. The scientific team is headed by Dr. Sean Gullick of the University of Texas at Austin Institute for Geophysics (UTIG) and also includes Drs. G. Christesen, P. Mann, and H. Van Avendonk of UTIG. The vessel will be self-contained, and the crew will live aboard the vessel for the entire cruise.

In addition to the operations of the airgun array, a multibeam echosounder (MBES) will be operated from the *Langseth* continuously throughout the STEEP cruise. Also, a sub-bottom profiler (SBP) will be operated by the *Langseth* during most of the survey.

A more detailed description of the authorized action, including vessel and acoustic source specifications, was included in the proposed IHA notice (73 FR 45407, August 5, 2008).

Safety Radii

L-DEO estimated the safety radii around their operations using a model and by adjusting the model results based on empirical data gathered in the Gulf of Mexico in 2003. Additional information regarding safety radii in general, how the safety radii were calculated, and how the empirical measurements were used to correct the modeled numbers may be found in NMFS' proposed IHA notice (73 FR 45407, August 5, 2008) and Section I and Appendix A of L-DEO's application. Using the modeled distances and various correction factors, Table 1 outlines the distances at which three rms sound levels (190 dB, 180 dB, and 160 dB) are expected to be received from the various airgun configurations in shallow, intermediate, and deep water depths.

Source and Volume	Tow Depth (m)	Water Depth	Predicted RMS Distances (m)		
			190 dB	180 dB	160 dB
Single Bolt airgun	9	Deep	12	40	385
40 in^3		Intermediate	18	60	578
		Shallow	150	296	1050
4 strings	9	Deep	300	950	6000
36 airguns		Intermediate	450	1425	6667
6600 in^3		Shallow	2182	3694	8000
4 strings	12	Deep	340	1120	7400
36 airguns		Intermediate	510	1680	8222
6600 in^3		Shallow	2473	4356	9867

Table 1. Predicted distances to which sound levels ≥190, 180, and 160 dB re 1 μPa might be received in shallow (<100 m; 328 ft), intermediate (100-1,000 m; 328-3,280 ft), and deep (>1,000 m; 3,280 ft) water during the STEEP survey in the Gulf of Alaska.

Comments and Responses

A notice of receipt of the L-DEO application and proposed IHA was published in the **Federal Register** on August 5, 2008 (73 FR 45407). During the comment period, NMFS received comments from the Marine Mammal Commission (Commission). NMFS also received one comment from a private citizen. Following are the comments from the Commission, a private citizen, the Center for Regulatory Effectiveness (CRE), and NMFS' responses.

Comment 1: The Commission recommends that NMFS provide additional justification for its proposed determination that the planned monitoring program will be sufficient to detect, with reasonable confidence, all marine mammals within or entering the identified safety zones; as such monitoring is essential for determining whether animals are being taken in unanticipated ways and unexpected numbers.

Response: NMFS believes that the planned monitoring program will be sufficient to detect (using visual detection and PAM), with reasonable certainty, most marine mammals within or entering identified safety zones. This monitoring, along with the required mitigation measures (see below), will result in the least practicable adverse impact on the affected species or stocks and will result in a negligible impact on the affected species or stocks.

The *Langseth* is utilizing a team of trained marine mammal observers (MMOs) to both visually monitor from the high observation tower of the *Langseth* and to conduct passive acoustic monitoring (PAM). However, there are limitations on marine mammal detection, and ramp-ups are required as a mitigation measure due to these limitations. This monitoring, along with the required mitigation measures (see below), will result in the least practicable adverse impact on the affected species or stocks and will result

in a negligible impact on the affected species or stocks.

When stationed on the observation platform of the *Langseth*, the eye level will be approximately 17.8 m (58.4 ft) above sea level, so the visible distance (in good weather) to the horizon is 8.9 nm (16.5 km; the largest safety radii is 2.4 nm, 4.4 km). Big eyes are most effective at scanning the horizon (for blows), while 7 x 50 reticle binoculars are more effective closer in (MMOs also use a naked eye scan). Night vision devices (NVDs) will be used in low light situations. Additionally, MMOs will have a good view in all directions around the entire vessel. Also, nearly 90 percent of the survey transect lines are in intermediate or deep water depths, where the safety radii are all less than 1 nm (1.9 km).

Theoretical detection distance of this PAM system is tens of kilometers. The PAM is operated both during the day and at night. Though it depends on the lights on the ship, the sea state, and thermal factors, MMOs estimated that visual detection is effective out to between 150 and 250 m (492 and 820 ft) using NVDs and about 30 m (98.4 ft) with the naked eye. However, the PAM operates equally as effectively at night as during the day, especially for sperm whales and dolphins.

The PAM has reliable detection rates out to 3 km (1.6 nm) and more limited ability out to 10s of km. The largest 180–dB safety radii (3.7 km, 2 nm), which is the radii within which the *Langseth* is required to shut down if a marine mammal enters, are found when the 36–gun array is operating in shallow water at a 9 m (29.5 ft) tow depth. Only 174 km (9 percent) of the total 1,909 km survey lines of the planned seismic survey (excluding 25 percent contingency) will take place in water less than 100 m deep (shallow water). The species most likely to be encountered in the waters of the Gulf of Alaska are Dall's porpoise and Pacific white-sided dolphins, which have relatively larger group sizes (2–20 animals for Dall's porpoises but even higher in some areas of the survey, 10–100 or more animals per group for Pacific white-sided dolphins), are not cryptic at the surface, and have relatively short dive times (6 minutes for dolphins), all which generally make them easier to visually detect. Other species that are likely to be encountered during the seismic survey include humpback, fin, and killer whales, have relatively long dive times; however, they are not cryptic at the surface, have large blows and distinct physical features, all which generally make them easier to visually detect. Furthermore, the vocalizations of most of these species are easily detected by the PAM. During the Maurice Ewing cruise in the GOM in 2003, MMOs detected marine mammals at a distance of approximately 10 km (5.4 nm) from the vessel and identified them to species level at approximately 5 km (2.7 nm) from the vessel, though the bridge of that vessel was only 11 m (36 ft) above the water (vs. the *Langseth*, which is more than 17 m (55.8 ft) above sea level). All of the 180–dB safety radii for other water depths and tow depths and for the single 40 in^3 airgun to be used during ramp-ups and power-downs (see below) are less than 2 km (1.1 nm).

The likelihood of visual detection at night is significantly lower than during the day, though the PAM remains just as effective at night as during the day. However, the *Langseth* will not be starting up the airguns unless the safety range is visible for the entire 30 minutes prior (i.e., not an night), and therefore in all cases at night, the airguns will already be operating, which NMFS believes will cause many cetaceans to avoid the vessel, which therefore will reduce the number likely to come within the safety radii. Additionally, all of the safety radii in intermediate and deep water depths are smaller than 3 km (1.6 nm) and fall easily within the reliable detection capabilities of the PAM.

Comment 2: The Commission recommends that observations be made during ramp-up procedures to gather data on its effectiveness as a mitigation measure.

Response: The IHA requires that MMOs on the *Langseth* make observations for 30 minutes prior to ramp-up, during all ramp-ups, and during all daytime seismic operations and record the following information when a marine mammal is sighted:

(I) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (e.g., none, avoidance, approach, paralleling, etc., and including responses to ramp-up), and behavioral pace; and

(ii) Time, location, heading, speed, activity of the vessel (including number of airguns operations and whether in state of ramp-up or power-down), sea state, visibility, cloud cover, and sun glare.

These requirements should provide information regarding the effectiveness of ramp-up as a mitigation measure, provided animals are detected during ramp-up.

Comment 3: The Commission recommends that the monitoring period prior to the initiation of seismic activities and to the resumption of airgun activities after a power-down be extended to one hour.

Response: As the Commission points out, several species of deep-diving cetaceans are capable of remaining underwater for more than 30 minutes. However, for the following reasons, NMFS believes that 30 minutes is an adequate length for the monitoring period prior to the start-up of airguns: (1) because the *Langseth* is required to ramp-up, the time monitoring prior to start-up of any but the smallest array is effectively longer than 30 minutes (i.e., ramp-up will begin with the smallest gun in the array and airguns will be added in a sequence such that the source level of the array will increase in steps not exceeding approximately 6 dB per 5–min period over a total duration of 20–40 min); (2) in many cases MMOs are making observations during times when sonar is not being operated and will actually be observing the area prior to the 30–min observation period anyway; (3) many of the species that may be exposed do not stay underwater more than 30 min; and (4) all else being equal and if a deep diving individual happened to be in the area in the short time immediately prior to the pre-start-up monitoring, if an animal's maximum underwater time is 45 minutes, there is only a 1 in 3 chance that its last random surfacing would be prior to the beginning of the required 30 min-monitoring period.

Comment 4: A member of the public opposes the issuance of permits to allow killing of marine mammals.

Response: NMFS does not believe that the authorized activities will result in the death of any marine mammals, nor does this IHA authorize any marine mammal mortality.

Comment 5: CRE states that there is no accompanying Environmental Impact Statement (EIS) for the GOA IHA, instead, there is only an EA. CRE asks NMFS if there is any continuing plan to prepare an EIS for the *Langseth*.

Response: A Draft Programmatic EIS (Draft PEIS) is being prepared by NSF (not NMFS) for future seismic surveys on the *Langseth*. However, NMFS is a cooperating agency under NEPA in its preparation. It is NMFS' intention that the Draft PEIS currently being developed will be used to support, in whole, or in part, future MMPA actions relating to academic research on seismic surveys.

Comment 6: CRE asks NMFS if there is any continuing plan to use the

Acoustic Integration Model (AIM) for the *Langseth*.

Response: The use of AIM remains proposed for NSF's Draft PEIS to address potential impacts related to marine seismic research. Preparation of that EIS continues, and public comments will be solicited when the Draft PEIS is published. AIM was developed by and is proprietary to Marine Acoustics, Inc. The commentor correctly notes that this particular IHA application does not use AIM. This application was prepared for NSF, L-DEO, and NMFS by LGL, Ltd., Environmental Research Associates (LGL). In the application for the proposed seismic operations, LGL notes that it is using the line transect method to estimate marine mammal exposures and determine exclusion zones, consistent with applications for recent previous NSF-funded research seismic cruises.

Comment 7: CRE requests that be any opportunity for public comment on AIM before NMFS issues AIM for the *Langseth* or for any other purpose.

Response: The NSF Draft PEIS will make the use of AIM available for public comment. AIM itself will not be available for public comment as it is proprietary.

Comment 8: CRE states that the GOA IHA application and the accompanying EA rely on both visual observers and PAM to monitor compliance with seismic safety radii requirements. Neither the IHA application nor the EA contain a record demonstrating that PAM is accurate and reliable for this purpose. CRE asks NMFS whether there is a record demonstrating PAM is sufficiently accurate and reliable to monitor compliance with seismic safety radii requirements and whether there is an opportunity for public comment on that subject.

Response: It is unclear what the commentor means by the phrase ''monitor compliance with seismic safety radii requirements.'' NMFS believes that visual observers and PAM are effective tools for monitoring marine mammals in the affected area during the seismic survey. PAM is required for monitoring on the *Langseth* (when practicable), but not for the implementation of mitigation measures. PAM is used by MMOs and the bioacoustician aboard the *Langseth* for the detection of vocalizing marine mammals. Any confirmed marine mammal vocalization detections using PAM are communicated to the visual observer(s) on watch to help alert the visual observers to the presence of vocalizing marine mammals in the survey area (not necessarily the safety radii). The use of PAM is therefore used in aid of the visual observers, who monitor the safety radii for presence of marine mammals. The detection of marine mammals in the vicinity of the array in turn triggers mitigation requirements.

Description of Marine Mammals in the Activity Area

A total of 18 cetacean species, 3 species of pinnipeds, and the northern sea otter are known to or may occur in the GOA study area. Several of the species that may occur in the project area are listed as Endangered under the U.S. Endangered Species Act (ESA), including the sperm, humpback, North Pacific right whale, fin, and blue whale and the western stock of Steller sea lions. The eastern stock of Steller sea lions are listed at Threatened. Neither the southcentral and southeast Alaska population stocks of northern sea otters (*Enhydra lutris kenyoni*) are listed as Threatened or Endangered under the ESA nor depleted under the MMPA. The northern sea otter is under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS) and therefore is not considered further in this analysis. There is little information on the distribution of marine mammals inhabiting the waters offshore of SE Alaska or the eastern GOA, although a few reports are available (e.g., Buckland *et al.*, 1993; Hobbs and Lerczak, 1993; Straley *et al.*, 1995; Calambokidis *et al.*, 1997; MacLean and Koski, 2005; Angliss and Outlaw, 2007).

Table 2 outlines the species, their habitat and abundance in the project area, and the estimated exposure levels. Additional information regarding the status and distribution of the marine mammals in the area and how the densities were calculated was included in the notice of the proposed IHA (73 FR 45407, August 5, 2008) and may be found in L-DEO's application.

Species	Habitat	Estimated Population	Avg. Density	Max. Density	Number of Indiv. Exposed to ≥160 dB	Percent of Estimated Population Exposed to ≥160 dB
Odontocetes						
Sperm whale (*Physeter macrocephalus*)	Pelagic	24,000 [5] (Regional)	0.00 [1] 0.31 [2] 4.04 [3]	0.00 [1] 0.58 [2] 6.06 [3]	49	0.2
Cuvier's beaked whale (*Ziphius cavirostris*)	Pelagic	20,000 [6] (Regional)	0.00 [1] 2.76 [2] 0.00 [3]	0.00 [1] 3.70 [2] 0.00 [3]	35	0.2
Baird's beaked whale (*Berardius bairdii*)	Pelagic	6,000 [7] (Regional)	0.00 [1] 0.66 [2] 0.00 [3]	0.00 [1] 0.88 [2] 0.00 [3]	8	0.1
Stejneger's beaked whale (*Mesoplodon stejnegeri*)	Likely Pelagic	N.A.	0.00 [1] 0.00 [2] 0.00 [3]	0.00 [1] 0.00 [2] 0.00 [0]	N.A.	0
Beluga whale (*Delphinapterus leucas*)	Coastal & Ice Edges	366 [8] (Alaska)	0.00 [1] 0.00 [2] 0.00 [3]	0.00 [1] 0.00 [2] 0.00 [3]	0	N.A.

Species	Habitat	Estimated Population	Avg. Density	Max. Density	Number of Indiv. Exposed to ≥160 dB	Percent of Estimated Population Exposed to ≥160 dB
Pacific white-sided dolphin (*Lagenorhynchus obliquidens*)	Pelagic, Shelf, Coastal	26,880 [9] (Alaska, Stock)	2.48 [1] 3.36 [2] 0.00 [3]	5.41 [1] 13.83 [2] 0.00 [3]	56	0.2
Killer whale (*Orcinus orca*)	Pelagic, Shelf, Coastal	1,975 [12] (Alaska)	12.87 [1] 4.03 [2] 0.00 [3]	34.14 [1] 8.81 [2] 0.00 [3]	116	5.9
Harbor Porpoise (*Phocoena phocoena*)	Coastal	41,854 [15] (Alaska, Stock)	23.26 [1] 17.85 [2] 0.00 [3]	47.27 [1] 24.21 [2] 0.00 [3]	346	0.8
Dall's Porpoise (*Phocoenoides dalli*)	Pelagic & Shelf	83,400 [17] (Alaska, Stock)	146.86 [1] 662.63 [2] 141.00 [3]	221.90 [1] 877.32 [2] 211.50 [3]	5,379	0.7
Mysticetes						
Humpback whale (*Megaptera novaeangliae*)	Coastal & Banks	>6,000 [22] (Regional)	32.82 [1] 11.89 [2] 15.60 [3]	54.58 [1] 24.37 [2] 15.60 [3]	246	4.1
Minke whale (*Balaenoptera acutorostrata*)	Coastal & Shelf	9,000 [23] (Regional)	1.20 [1] 0.24 [2] 0.00 [3]	4.87 [1] 1.23 [2] 0.00 [3]	9	0.1
Gray whale (*Eschrichtius robustus*)	Coastal	18,813 [20] (Regional, Stock)	0.00 [1] 0.00 [2] 0.00 [3]	0.00 [1] 0.00 [2] 0.00 [3]	0	0
Fin whale (*Balaenoptera physalus*)	Pelagic	13,620-18,680 [22] (Regional)	7.31 [1] 11.08 [2]	19.40 [1] 20.25 [2] 0.00 [3]	89	0.7
Blue whale (*Balaenoptera musculus*)	Pelagic, Shelf, Coastal	1,744 [11] (Region)	0.00 [1] 0.00 [2] 0.00 [3]	0.00 [1] 0.00 [2] 0.00 [3]	0	0
North Pacific right whale (*Eubalaena japonica*)	Coastal & Shelf	100-200 [19]	0.00 [1] 0.00 [2] 0.00 [3]	0.00 [1] 0.00 [2] 0.00 [3]	0	0
Pinnipeds						
Northern fur seal (*Callorhinus ursinus*)	Pelagic, Breeds Coastally	721,935 [25] (Regional, Stock)	0.00 [1] 0.00 [2] 0.00 [3]	0.00 [1] 0.00 [2] 0.00 [3]	0	0
Steller sea lion (*Eumetopias jubatus*)	Coastal	47,885 [26] (E. Stock) 44,780 [27] (W. Stock)	3.99 [1] 4.20 [2] 0.00 [3]	5.99 [1] 6.30 [2] 0.00 [3]	74 (62 E, 12 W)	0.1 E 0.02 W
Harbor seal (*Phoca vitulina richardsi*)	Coastal	108,670 (Stock)	2.00 [1] 20.28 [2] 0.00 [3]	3.00 [1] 30.42 [2] 0.00 [3]	269	0.2

Table 2. The habitat, abundance, and conservation status of marine mammals inhabiting the proposed study area in the Gulf of Alaska. Regional abundance estimates are also given, usually for the Northeastern Pacific Ocean or the U.S. West Coast. Note: N.A. = Not available or not applicable.

[1] Depths <100 m (330ft) (Densities of marine mammals during surveys in Southeast Alaska and the Gulf of Alaska calculated from data in Dahlheim and Towell (194), Dahlheim *et al.* (2000), Waite (2003), MacLean and Koski (2005), and Zerbini *et al.* (2006, 2007)).

[2] Depths 100-1,000 m (330-3,300 ft)

[3] Depths >1,000 m (3,300 ft)

[4] Western GOA and eastern Aleutians (Zerbini *et al.*, 2004).

[5] Eastern temperate North pacific (Whitehead, 2002).

[6] Eastern Tropical Pacific (Wade and Gerrodette, 1993).

[7] Western North Pacific (Reeves and Leatherwood, 1994; Kasuya, 2002).

[8] Cook Inlet stock (Rugh *et al.*, 2005a).

[9] GOA (Angliss and Outlaw, 2007).

[10] North Pacific Ocean (Buckland *et al.*, 1993).

[11] California/Oregon/Washington (Carretta *et al.* 2007).

[12] Minimum abundance in Alaskan waters, includes 1,339 resident and 636 transient (Angliss and Outlaw, 2007).

[13] Eastern Tropical Pacific (Ford, 2002).

[14] SE Alaska stock (Angliss and Outlaw, 2007).
[15] GOA stock (Angliss and Outlaw 2007).
[16] Western North Pacific Ocean (totals from Carretta *et al.*, 2007 and Angliss and Outlaw, 2007).
[17] Alaska stock (Angliss and Outlaw, 2007).
[18] North Pacific Ocean and Bering Sea (Houk and Jefferson, 1999).
[19] Eastern North Pacific (Wada, 1973).
[20] Mean of 2000-2001 and 2001-2002 abundance estimates for eastern North Pacific (Angliss and Outlaw, 2007).
[21] Western GOA and eastern Aleutians (Zerbini *et al.*, 2006).
[22] North Pacific Ocean (Carretta *et al.*, 2007).
[23] North Pacific Ocean (Wada, 1976).
[24] Central waters of western Alaska and eastern and central Aleutian Islands (Angliss and Outlaw, 2007).
[25] Abundance for Eastern Pacific Stock (Angliss and Outlaw, 2007).
[26] Eastern U.S. Stock (Angliss and Outlaw, 2007).
[27] Western U.S. Stock (Angliss and Outlaw, 2007).
[28] Alaska statewide (Angliss and Outlaw, 2007).
[29] Abundance estimate for SE Alaska stock (USFWS 2002 in Angliss and Outlaw, 2007).
[30] Abundance estimate Southcentral Alaska (USFWS 2002 in Angliss and Outlaw, 2007).
[31] SW Alaska stock (USFWS 2002 in Angliss and Outlaw, 2007).

Potential Effects on Marine Mammals

The effects of sounds from airguns might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbances, and at least in theory, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.*, 1995; Gordon *et al.*, 2004; Nowacek *et al.*, 2007; Southall *et al.*, 2007). Permanent hearing impairment, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift (TTS) is not an injury (Southall *et al.*, 2007). With the possible exception of some cases of TTS in harbor seals, it is unlikely that the project would result in any cases of temporary impairment, or any significant non-auditory physical or physiological effects. Some behavioral disturbance is expected, but this would be localized and short-term. Also, behavioral disturbance is expected to be limited to relatively short distances.

The notice of the proposed IHA (73 FR 45407, August 5, 2008) included a discussion of the effects of sounds from airguns on mysticetes, odontocetes, and pinnipeds, including tolerance, masking, behavioral disturbance, hearing impairment, and other non-auditory physical effects. Additional information on the behavioral reactions (or lack thereof) by all types of marine mammals to seismic vessels can be found in Appendix B of L-DEO's application.

The notice of the proposed IHA also included a discussion of the potential effects of the multibeam echosounder (MBES) and the sub-bottom profiler (SBP). Because of the shape of the beams of these sources and their power, NMFS believes it unlikely that marine mammals will be exposed to either the MBES or the SBP at levels at or above those likely to cause harassment. Further, NMFS believes that the brief exposure of cetaceans or pinnipeds to few signals from the multi-beam bathymetric sonar system is not likely to result in the harassment of marine mammals.

Estimated Take by Incidental Harassment

The notice of the proposed IHA (73 FR 45407, August 5, 2008) included an in-depth discussion of the methods used to calculate the densities of the marine mammals in the area of the seismic survey and the take estimates. Additional information was included in L-DEO's application. A summary is included here.

All anticipated ''takes by harassment'' authorized by this IHA are Level B harassment only, involving temporary changes in behavior. The mitigation measures are expected to minimize the possibility of injurious takes. Take calculations were based on maximum exposure estimates (based on maximum density estimates) vs. best estimates and are based on the 160–dB isopleth of a larger array of airguns. Given these considerations, the predicted number of marine mammals that might be exposed to sounds 160 dB may be somewhat overestimated.

There are few systematic data on the numbers and distributions of marine mammals in SE Alaska and the GOA. Zerbini *et al.* (2003, 2006, 2007) conducted vessel-based surveys in the northern and western GOA from the Kenai Peninsula to the central Aleutian Islands during July-August 2001–2003. Killer whales were the principal target of the surveys, but the abundance and distribution of fin, humpback, and minke whales were also reported. Waite (2003) conducted vessel-based surveys in the northern and western GOA from Prince William Sound (PWS) to approximately 160° W off Alaska Peninsula during 26 June- 15 July 2003; cetaceans recorded included small odontocetes, beaked whales, and mysticetes. The eastern part of Zerbini *et al.* surveys and Waite's survey were confined to water <1,000 m deep, and most effort was in depths <100 m. Dahlheim *et al.* (2000) conducted aerial surveys of the nearshore waters from Bristol Bay to Dixon Entrance for harbor porpoises; SE Alaska was surveyed during 1–26 June 1993. Dahlheim and Towell (1994) conducted vessel-based surveys of Pacific white-sided dolphins in the inland waterways of SE Alaska during April-May, June or July, and September- early October of 1991–1993. In a report on a seismic cruise in SE Alaska from Dixon Entrance to Kodiak Island during August-September 2004, MacLean and Koski (2005) included density estimates of cetaceans and pinnipeds for each of three depth ranges (<100 m, 100–1,000 m, and >1,000 m) during non-seismic periods.

Most surveys for pinnipeds in Alaskan waters have estimated the number of animals at haul-out sites, not in the water (e.g., Loughlin, 1994; Sease *et al.*, 2001; Withrow and Cesarone, 2002; Sease and York, 2003). To our knowledge, the estimates of MacLean and Koski (2005) are the only in-water estimates of pinnipeds in the proposed survey area.

The L-DEO survey will occur from September- October, 2008 in the Gulf of Alaska, , a location and time of year in which the species densities are likely similar or slightly different from those during the above-mentioned surveys in the Gulf of Alaska, but these surveys are the best available data at this time.

Eight species of odontocete whales, five species of mysticete whale, and three species of pinnipeds are expected to be harassed during the seismic survey. Risso's dolphins and short-finned pilot whales are unlikely to occur in the study area and any sightings would be considered extralimital to their range. No take was authorized for either of these species. Stejneger's beaked whales, beluga whales, gray whales, and northern fur seals occur in the Gulf of Alaska, but generally occur in the study area in low numbers or at different times of the year. Although not expected in the area,

small numbers of take of Stejneger's beaked whales, gray whales, blue whales, and northern fur seals were authorized due to a lack of marine mammal survey data and uncertainty in the study area. No take of North Pacific right or beluga whales is expected or authorized due to their rare occurrence in the area and the special mitigation for these species of concern. Where stock size wasn't available, NMFS used the estimated abundance in Alaska or the region to determine the percentage of the population exposed to sound levels greater than or equal to 160 dB. Since the take estimates authorized in this IHA are no more than 5.9 percent of any affected cetacean species and no more than 0.2 percent of any affected pinnipeds species found along or offshore of the Alaskan coast, NMFS believes that the estimated take numbers for these species and stocks are small relative to the relevant population of these affected species or stocks.

Table 3 (see below) outlines the species, estimated stock population (minimum and best), and estimated percentage of the stock exposed to seismic impulses in the project area. Additional information regarding the status, abundance, and distribution of the marine mammals in the area and how the densities were calculated was included in Table 2 (see above), the notice of the proposed IHA (73 FR 45407, August 5, 2008) and may be found in L-DEO's application

Potential Effects on Habitat

A detailed discussion of the potential effects of this action on marine mammal habitat, including physiological and behavioral effects on marine fish and invertebrates, was included in the notice of the proposed IHA (73 FR 45407, August 5, 2008). Based on the discussion in the proposed IHA notice and the nature of the activities (limited duration), the authorized operations are not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations or stocks. Similarly, any effects to food sources are expected to be negligible.

Subsistence Activities

The proposed project could potentially impact the availability of marine mammals for subsistence harvest in a very small area immediately around the *Langseth*, and for a very short time period during seismic activities. Considering the limited time and locations for the planned seismic surveys, most of which are well offshore, the proposed project is not expected to have any significant impacts to the availability of beluga whales, Steller sea lions, Pacific harbor seals, and sea otters. Also, seismic surveys can at times, cause changes in the catchability of fish.

To avoid having an unmitigable adverse impact on subsistence uses of marine mammals, NMFS is required to implement mitigation measures to ensure that NSF and L-DEO's seismic activities do not have an unmitigable adverse impact on subsistence uses of marine mammals in the project area. L-DEO will minimize the potential to negatively impact the subsistence harvest by coordinating with local native communities and avoiding areas (to the maximum extent practicable) where subsistence collectors are hunting marine mammals and fishing. Additionally, L-DEO will consult with each village near the planned project area to identify and avoid areas of potential conflict. These consultations will include all marine subsistence activities (mammals and fisheries). Implementation of these measures ensures that there will not be significant social or economic impacts on the coastal inhabitants of the GOA and Southeast Alaska. NMFS has determined (based on the above stated reasons) that L-DEO's activities will not have an unmitigable adverse impact on the subsistence uses of the species hunted by Alaska Natives and a requirement to these effects will be addressed in the IHA.

Monitoring and Mitigation

Mitigation and monitoring measures required to be implemented for the proposed seismic survey have been developed and refined during previous L-DEO seismic survey studies and associated environmental assessments (EAs), IHA applications, and IHAs. The mitigation and monitoring measures described herein represent a combination of the procedures required by past IHAs for other similar projects and on recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman (2007). The measures are described in detail below.

Required mitigation measures include: (1) speed or course alteration, provided that doing so will not compromise operational safety requirements; (2) power-down procedures; (3) shutdown procedures; (4) ramp-up procedures; (5) special procedures for situations and species of particular concern, e.g., avoidance of critical habitat around Steller sea lion rookeries and haul-outs (see ''shut-down procedures'' and ''special procedures for situations and species of particular concern,'' below).

Vessel-based Visual Monitoring

Vessel-based marine mammal visual observers (MMVOs) will be based aboard the seismic source vessel and will watch for marine mammals near the vessel during daytime airgun operations and during start-ups of airguns at night. MMVOs will also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the start of airgun operations and after an extended shutdown of the airguns (i.e., 7 minutes). When feasible, MMVOs will also make observations during daytime periods when the seismic system is not operating for comparison of animal abundance and behavior. Based on MMVO observations, airguns will be powered down, or if necessary, shut down completely (see below), when marine mammals are detected within or about to enter a designated safety radius corresponding to 180 dB (for cetaceans) and 190 dB (for pinnipeds) isopleths. The MMVOs will continue to maintain watch to determine when the animal(s) are outside the safety radius, and airgun operations will not resume until the animal has left that zone. The predicted distances for the safety radius' are listed according to the sound source, water depth, and received isopleth in Table 1.

During seismic operations in the Gulf of Alaska, at least three visual observers and one bioacoustician will be based aboard the *Langseth*. MMVOs will be appointed by L-DEO with NMFS concurrence. At least one MMVO, and when practical two, will monitor the safety radii for marine mammals during daytime operations and nighttime startups of the airguns. Use of two simultaneous MMVOs will increase the proportion of the animals present near the source vessel that are detected. MMVO(s) will be on duty in shifts of duration no longer than 4 hours. The vessel crew will also be instructed to assist in detecting marine mammals and implementing mitigation requirements (if practical). Before the start of the seismic survey the crew will be given additional instruction regarding how to do so.

The *Langseth* is a suitable platform for marine mammal observations. When stationed on the observation platform, the eye level will be approximately 17.8 m (58.4 ft) above sea level, and the observer will have a good view around the entire vessel. During daytime, the MMVO(s) will scan the area around the vessel systematically with reticle binoculars (e.g., 7x50 Fujinon), Big-eye binoculars (25x150), and with the naked eye. During darkness, NVDs will be

available (ITT F500 Series Generation 3 binocular-image intensifier or equivalent). Laser rangefinding binoculars (Leica LRF 1200 laser rangefinder or equivalent) will be available to assist with distance estimation. Those are useful in training MMVOs to estimate distances visually, but are generally not useful in measuring distances to animals directly.

Passive Acoustic Monitoring

PAM will take place to complement the visual monitoring program. Acoustic monitoring can be used in addition to visual observations to improve detection, identification, localization, and tracking of cetaceans. It is only useful when marine mammals call, but it can be effective either by day or by night and does not depend on good visibility. The acoustic monitoring will serve to alert visual observers when vocalizing cetaceans are detected. It will be monitored in real time so visual observers can be advised when cetaceans are detected. When bearings (primary and mirror-image) to calling cetacean(s) are determined, the bearings will be relayed to the visual observer to help him/her sight the calling animal(s).

The PAM system consists of hardware (i.e., hydrophones) and software. The ''wet end'' of the system consists of a low-noise, towed hydrophone array that is connected to the vessel by a ''hairy'' faired cable. The array will be deployed from a winch located on the back deck. A deck cable will connect from the winch to the main computer lab where the acoustic station and signal condition and processing system will be located. Th lead-in from the hydrophone array is approximately 400 m (1,312 ft) long, and the active part of the hydrophone is approximately 56 m (184 ft) long. The hydrophone array is typically towed at depths <20 m (65.6 ft).

The towed hydrophone array will be monitored 24 hours per day while at the survey area during airgun operations and also during most periods when the *Langseth* is underway with the airguns not operating. One Marine Mammal Observer (MMO) and/or bioacoustician will monitor the acoustic detection system at any one time, by listening to the signals from two channels via headphones and/or speakers and watching the real time spectrographic display for frequency ranges produced by cetaceans. MMOs monitoring the acoustical data will be on shift for 1–6 hours. Of the three observers required on board, one will have primarily responsibility for PAM during the seismic survey. However, all MMOs are expected to rotate through the PAM position, although the most experienced with acoustics will be on PAM duty more frequently.

When a vocalization is detected, the acoustic MMO will, if visual observations are in progress, contact the MMVO immediately to alert him/her to the presence of the vocalizing marine mammal(s) (if they have not already been seen), and to allow a power down or shutdown to be initiated, if required. The information regarding the call will be entered into a database. The data to be entered includes an acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position and water depth when first detected, bearing if determinable, species or species group (e.g., unidentified dolphin, sperm whale), types and nature of sounds heard (e.g., clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, etc.), and any other notable information. The acoustic detection can also be recorded for further analysis.

Speed or Course Alteration – If a marine mammal is detected outside the safety radius and, based on its position and the relative motion, is likely to enter the safety radius or exclusion zone (EZ), the vessel's speed and/or direct course may be changed. This would be done if practicable while minimizing the effect on th planned science objectives. The activities and movements of the marine mammal(s) (relative to the seismic vessel) will then be closely monitored to determine whether the animals is approaching the applicable EZ. If the animal appears likely to enter the EZ, further mitigative actions will be taken, i.e., either further course alterations or a power down or shut down of the airguns. Typically, during seismic operations, major course and speed adjustments are often impractical when towing long seismic streamers and large source arrays, thus alternative mitigation measures (see below) will need to be implemented.

Power-down Procedures – A power-down involves reducing the number of operating airguns in use to minimize the EZ, so that marine mammals are no longer in or about to enter this zone. A power-down of the airgun array to a reduced number of operating airguns may also occur when the vessel is moving from one seismic line to another. During a power down for mitigation, one airgun will be operated. The continued operation of at least one airgun is intended to alert marine mammals to the presence of the seismic vessel in the area. In contrast, a shut down occurs when all airgun activity is suspended.

If a marine mammal is detected outside the EZ but is likely to enter it, and if the vessel's speed and/or course cannot be changed to avoid the animal(s) entering the EZ, the airguns will be powered down to a single airgun before the animal is within the EZ. Likewise, if a mammal is already within the EZ when first detected, the airguns will be powered down immediately. During a power down of the airgun array, the 40–in^3 airgun will be operated. If a marine mammal is detected within or near the smaller EZ around that single airgun (see Table 1 above), all airguns will be shutdown (see next subsection).

Following a power down, airgun activity will not resume until the marine mammal is outside the EZ for the full array. The animal will be considered to have cleared the EZ if it:

(1) Is visually observed to have left the EZ; or

(2) Has not been seen within the EZ for 15 minutes in the case of small odontocetes and pinnipeds; or

(3) Has not been seen within the EZ for 30 minutes in the case of mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales; or

During airgun operations following a power-down (or shut down) and subsequent animal departure as above, the airgun array will resume operations following ramp-up procedures described below.

Shutdown Procedures – The operating airgun(s) will be shutdown if a marine mammal is detected within or approaching the EZ for the then-operating single 40 in^3 airgun while the airgun array is at full volume or during a power down. Airgun activity will not resume until the marine mammal has cleared the EZ or until the MMVO is confident that the animal has left the vicinity of the vessel. Criteria for judging that the animal has cleared the EZ will be as described in the preceding subsection.

Ramp-up Procedures – A ramp-up procedure will be followed when the airgun array begins operating after more than 7 minutes without airgun operations or when a power down has exceeded 7 minutes. This period is based on the modeled 180–dB radius for the 36–airgun array (see Table 1) in relation to the planned speed of the *Langseth* while shooting. Similar periods (approximately 8–10 minutes) were used during previous L-DEO surveys.

Ramp-up will begin with the smallest airgun in the array (40 in^3). Airguns will be added in a sequence such that the source level of the array will increase in

steps not exceeding 6 dB per 5–minute period over a total duration of approximately 20–25 minutes. During ramp-up, the MMVOs will monitor the EZ, and if marine mammals are sighted, a course/speed change, power down, or shutdown will be implemented as though the full array were operational.

If the complete EZ has not been visible for at least 30 min prior to the start of operations in either daylight or nighttime, ramp up will not commence unless at least one airgun (40 in^3 or similar) has been operating during the interruption of seismic survey operations. Given these provisions, it is likely that the airgun array will not be ramped up from a complete shut down at night or in thick fog, because the other part of the EZ for that array will not be visible during those conditions. If one airgun has operated during a power down period, ramp up to full power will be permissible at night or in poor visibility, on the assumption that marine mammals will be alerted to the approaching seismic vessel by the sounds from the single airgun and have the opportunity to move away. Ramp up of the airguns will not be initiated if a marine mammal is isghted within or near the applicable EZ during the day or close to the vessel at night.

Special Procedures for Situations and Species of Concern

Several species of concern could occur in the study area. To the maximum extent practicable, special mitigation procedures will be used for those species, as follows:

(1) Critical habitat around Steller sea lion rookeries and haul-outs will be avoided;

(2) The airguns will be shut down if a North Pacific right whale is sighted at any distance from the vessel;

(3) The airguns will be shut down if a beluga whale is sighted at any distance from the vessel in or near Yakutat Bay;

(4) Concentrations of humpback whales, fin whales, and sea otters will be avoided;

(5) The seismic vessel will avoid areas where subsistence fishers are hunting for marine mammals and/or fishing; and

(6) Because the sensitivity of beaked whales, approach to slopes will be minimized, if possible. There are no submarine canyons in or near the study area, and only a limited amount of airgun operations is planned over slope during the proposed survey (Figure 1 of L-DEO's application).

MMVO Data and Documentation

MMVOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document any apparent disturbance reactions or lack thereof. Data will be used to estimate the numbers of mammals potentially ''taken'' by harassment. They will also provide information needed to order a power-down or shutdown of airguns when marine mammals are within or near the relevant safety radius. When a sighting is made, the following information about the sighting will be recorded:

(1) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (e.g., none, avoidance, approach, paralleling, etc. and including responses to ramp-up), and behavioral pace.

(2) Time, location, heading, speed, activity of the vessel (including number of airguns operating and whether in state or ramp-up, power-down, or full power), sea state, visibility, cloud cover, and sun glare.

The data listed under (2) will also be recorded at the start and end of each observation watch and during a watch, whenever there is a change in one or more of the variables.

All observations, as well as information regarding airgun power down and shutdown, will be recorded in a standardized format. Data will be entered into a custom electronic database. The accuracy of data will be verified by computerized data validity checks as the data are entered and by subsequent manual checking of the database. Preliminary reports will be prepared during the field program and summaries forwarded to the operating institution's shore facility and to NSF weekly or more frequently. MMVO observations will provide the following information:

(1) The basis for decisions about powering down or shutting down airgun arrays.

(2) Information needed to estimate the number of marine mammals potentially ''taken by harassment.'' These data will be reported to NMFS per terms of MMPA authorizations or regulations.

(3) Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.

(4) Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

Reporting

A report will be submitted to NMFS within 90 days after the end of the cruise. The report will describe the operations that were conducted and sightings of marine mammals near the operations. The report will be submitted to NMFS, providing full documentation of methods, results, and interpretation pertaining to all monitoring and mitigation. The 90–day report will summarize the dates and locations of seismic operations (dates, times, locations, heading, speed, weather, sea state, activities), and all marine mammal sightings (dates, times, locations, species, behavior, number of animals, associated seismic survey activities). The report will also include the estimates of the amount and nature of potential ''take'' of marine mammals by harassment or in other ways, as well as a description of the implementation and effectiveness of the monitoring and mitigation measures of the IHA and Biological Opinion's (BiOp) Incidental Take Statement.

Endangered Species Act (ESA)

Pursuant to section 7 of the ESA, NSF has consulted with the NMFS, Office of Protected Resources, Endangered Species Division on this seismic survey. NMFS has also consulted internally pursuant to section 7 of the ESA on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. NMFS has issued a BiOp, which concluded that the proposed action and issuance of an IHA are not likely to jeopardize the continued existence of blue, fin, humpback and sperm whales, Steller sea lions, and leatherback sea turtles; or listed ESUs of Pacific salmon and steelhead. The BiOp also concluded that the proposed activities are not likely to adversely modify critical habitat designated for Steller sea lions in the action area. Relevant Terms and Conditions of the Incidental Take Statement in the BiOp have been incorporated into the IHA.

National Environmental Policy Act (NEPA)

NSF prepared an Environmental Assessment of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* in the Gulf of Alaska, September 2008. NMFS has adopted NSF's EA and issued a Finding of No Significant Impact for the issuance of the IHA.

Determinations

NMFS has determined that the impact of conducting the seismic survey in the Gulf of Alaska may result, at worst, in a temporary modification in behavior (Level B Harassment) of small numbers of 16 species of cetaceans and pinnipeds. Further, this activity is expected to result in a negligible impact

on the affected species or stocks. The provision requiring that the activity not have an unmitigable adverse impact on the availability of the affected species or stock for subsistence uses is not implicated for this proposed action provided the mitigation measures required under the authorization are implemented.

This negligible impact determination is supported by: (1) the likelihood that, given sufficient warning through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to it becoming potentially injurious; (2) the fact that marine mammals would have to be closer than 40 m (131 ft) in deep water, 60 m (197 ft) at intermediate depths, or 296 m (971 ft) in shallow water when a single airgun is in use from the vessel to be exposed to levels of sound (180 dB) believed to have even a minimal chance of causing TTS; (3) the fact that marine mammals would have to be closer than 950 m (0.5 nm) in deep water, 1,425 m (0.8 nm) at intermediate depths, and 3,694 m (2 nm) in shallow water when the full array is in use at a 9 m (29.5 ft) tow depth from the vessel to be exposed to levels of sound (180 dB) believed to have even a minimal chance of causing TTS; (4) the likelihood that marine mammal detection ability by trained observers is good at those distances from the vessel; (5) the use of PAM, which is effective out to tens of km, will assist in the detection of vocalizing marine mammals at greater distances from the vessel; (6) the incorporation of other required mitigation measures (i.e., ramp-up, power-down, and shutdown); and (7) the limited duration of the seismic survey in the GOA study area (approximately 18 days). As a result, no take by injury or death is anticipated, and the potential for temporary or permanent hearing impairment is very low and will be avoided through the incorporation of the required monitoring and mitigation measures.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals in the vicinity of the survey activity, the number of potential harassment takings is estimated to be small, relative to the affected species and stock sizes, and has been mitigated to the lowest level practicable through incorporation of the measures mentioned previously in this document.

Authorization

As a result of these determinations, NMFS has issued an IHA to L-DEO for conducting a marine geophysical survey in the Gulf of Alaska in September, 2008, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: September 8, 2008.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–21346 Filed 9–11–08; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0052, Establishing Procedures for Designated Contract Markets and Applicants Seeking Designation, Comment Request

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of an existing collection notice.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to Part 38 of the Commission's regulations (17 CFR 38) establishing submission and compliance procedures for designated contract markets and applicant exchanges seeking designation with the CFTC.

DATES: Comments must be submitted on or before November 12, 2008.

ADDRESSES: Comments may be mailed to Bruce Fekrat, Special Counsel, Division of Market Oversight, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Bruce Fekrat, (202) 418–5578; Fax: (202) 418–5527; e-mail: *bfekrat@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the intent to renew the collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

Collection 3038–0052, Establishing Procedures for Designated Contract Markets and Applicants Seeking Designation—Extension

Part 38 of the Commission's regulations governs the activities of designated contract markets. The information collected thereunder is necessary for the Commission to evaluate whether entities operating as, or applying to become, designated contract markets are in compliance with the designation criteria of section 5(b) of the Commodity Exchange Act (CEA), 7 U.S.C. 7(b), and the core principles of section 5(d) of the CEA, 7 U.S.C. 7(d), and the Commission's regulations adopted thereunder.

The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

Report	Estimated number of respondents	Reports annually by each	Total annual responses	Estimated average number of hours per response	Annual reporting burden
Designation and Compliance	13	NA	NA	300	3900
Annual	13	1	13	70	910

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Dated: September 8, 2008.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E8–21287 Filed 9–11–08; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Concerning ''Continuous Disreefing Apparatus for Parachute''

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR Part 404.6, announcement is made of the availability for licensing of US Patent No. US 7,416,158 entitled ''Continuous Disreefing Apparatus for Parachute'' issued August 26, 2008. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey DiTullio at U.S. Army Soldier Systems Center, Kansas Street, Natick, MA 01760, Phone: (508) 233–4184 or e-mail: *Jeffrey.Ditullio@us.army.mil*.

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR Part 404.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E8–21288 Filed 9–11–08; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies; Availability of Proposed Principles and Request for Comments

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Announcement of availability of proposed Principles and request for comments.

SUMMARY: Section 2031 of the Water Resources Development Act of 2007 (Pub. L. 110–114) directs the Secretary of the Army to revise the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (P&G), which the Water Resources Council issued on March 10, 1983. The Army Corps of Engineers (''Corps'') proposes to craft the revision in phases. The first phase would address the basic principles of water resources planning (''Principles'') and the next phase or phases would provide more detailed implementing guidance.

This notice includes a copy of the proposed Principles (see **SUPPLEMENTARY INFORMATION**), which would replace the first two pages of the P&G. The proposed Principles may also be found at: *http://www.usace.army.mil/cw/hot_topics/ht_2008/pandg_rev.htm*.

DATES: Written comments are invited and will be accepted through October 15, 2008.

ADDRESSES: Comments should be submitted in writing to HQUSACE, Attn: P&G Revision, CECW–ZA, 441 G Street, NW., Washington, DC 20314–1000, by e-mail to: *larry.j.prather@usace.army.mil* or FAX: 202–761–5649.

FOR FURTHER INFORMATION CONTACT: Larry J. Prather, Assistant Director of Civil Works, at 202–761–0106.

SUPPLEMENTARY INFORMATION: Section 2031 of the Water Resources Development Act of 2007 (Pub. L. 110–114) directs the Secretary of the Army to revise the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, dated March 10, 1983, and to apply the revisions to all water resources projects carried out by the Secretary, other than projects for which the Secretary has already commenced a feasibility study.

The Corps requested interested individuals and organizations to submit suggestions for revision of the P&G in a notice published in the **Federal Register** (73 FR 26086) on Thursday, May 8, 2008. As announced in that notice, the Corps also held a public meeting to hear oral suggestions for proposed revisions on June 5, 2008. Several major issues were discussed in the oral or written comments, including watershed planning, collaborative planning, the reliance on benefit cost ratios, giving more standing to environmental values, and non-structural flood damage reduction projects.

The Corps is now asking interested individuals and organizations to submit comments on the proposed Principles. Comments on any aspect of the proposal are welcome.

The issues on which the public may want to comment include: actions covered by the Principles (section 1), the language used to describe the national planning objective (section 2), the role of public safety in project formulation (sections 2, 7, and 9), the role of watershed analysis (section 4), the response to uncertainty (sections 5, 6, and 9), ensuring consideration of all reasonable alternatives (sections 6 and 7), the definition of and preference for non-structural plans (sections 7 and 9), and the plan selection criteria (section 9). Comments are also specifically invited on the appropriate discount rate to use in formulating proposed water resources projects.

Section 9 of the proposed Principles includes use of a higher economic standard for projects, project features, and increments of work whose primary purpose is to achieve economic benefits. A benefit-cost ratio (BCR) of 1.5, rather than the current 1.0 BCR threshold in the 1983 P&G, is proposed. This would result in projects that are more likely to provide a positive net economic return, and would provide better value from the available Federal and local resources. The proposed new standard would exclude projects, project features, and increments of work that provide a low return to the Nation.

While section 2031 of the Water Resources Development Act applies to water resources projects of the Corps, the proposed Principles are drafted more broadly to allow for the possibility that they can be applied to the other Federal water resource agencies currently covered by the P&G. Comments are invited on suggested changes in language that might be desirable to enable other water resources agencies to use these Principles as well.

Written comments (by mail, fax, or e-mail) should be submitted to (see **ADDRESSES**). Comments will be posted on the U.S. Army Corps of Engineers Web site (*http://www.usace.army.mil/cw/hot_topics/ht_2008/pandg_rev.htm*). Interested individuals and organizations may access copies of the following documents at this Internet site: the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, dated March 10, 1983; the Water Resources Development Act of 2007 (Pub. L. 110–114); and the proposed Principles. Copies of these three documents may also be requested by mail or e-mail (see **ADDRESSES**). Other relevant documents, including the written suggestions received earlier, are also available at this Internet site.

Proposed Principles. 1. Purpose and Scope. These principles and the associated guidelines are intended to ensure proper, consistent and transparent planning in the formulation, evaluation, and selection of proposed Federal water and related land resources projects.

These principles establish the process for such planning studies and how each phase of the process functions. In addition, these principles provide the analytical framework to be followed for proposed further investments in, extensive modifications to, and expanded changes in operation of existing Federal water resources projects and systems.

2. National Planning Objective. The national objective of water and related land resources planning is to foster environmentally sound, efficient use of the Nation's resources consistent with public safety. This can be accomplished through watershed analyses that recognize the interdependency of water uses. This is strengthened by capitalizing on a collaborative planning and implementation process which incorporates fully informed participation from Federal agencies, non-Federal interests, non-governmental organizations, State and local and Tribal governments, and a full range of water users and stakeholders.

Water and related land resources planning that is consistent with the national planning objective seeks to incorporate some or all of these elements: facilitate sustainable national economic development, encourage wise use of water and related land resources—including floodplains and flood-prone coastal areas, support the protection and restoration of significant aquatic ecosystems, promote the integration and improvement of how the Nation's water resources are managed; and reduce vulnerabilities and losses due to natural disasters.

3. Overview. The basic planning process consists of the following major steps:

(1) Specification of the water and water related land resources problems and opportunities in the planning setting and their relationship to the national planning objective;

(2) Inventory and analysis of the current condition of the water and related land resources relevant to the identified problems and opportunities;

(3) Identification of study objectives with respect to the problems and opportunities, after taking into account current and potential future uses of the water resources;

(4) Formulation of a full range of alternative plans reflecting those study objectives;

(5) Evaluation of the potential effects of the alternative plans;

(6) Comparison of the alternative plans; and

(7) Selection of a proposed plan, which best meets both the study objectives and the national planning objective.

The planning process is dynamic with various steps that should be iterated as new data are obtained, or as the understanding of the problems, opportunities, and study objectives or their significance changes or is better defined. These iterations, which may occur at any step, may sharpen the planning focus or change its direction or emphasis.

4. Watersheds. Water and related land resources have many, and at times competing, alternative uses. Water resources planning can identify and address the synergies and trade-offs associated with these multiple uses within the watershed.

Water and related land resources planning should commence from the watershed level to determine how the problems and opportunities being examined in a study fits into the current and expected watershed needs. The planning effort is primarily informed by such watershed analysis wherein proposed projects are considered in the full light of upstream and downstream conditions and needs that ensures project recommendations are part of a complementary systems solution. This highlights the importance that planning proceed, in a coordinated systems context, with the interactions of other programs, projects, and plans that are relevant within the related watershed being understood.

Water resources planning is collaborative and may consider alternatives and strategies for implementation by other Federal agencies, state and local agencies, Native American tribes, non-Federal interests, non-governmental organizations, affected groups and individuals, and/or the public at large. The focus should be on developing plans that are consistent with the national planning objective and are efficient, complete, and effective.

5. Science Based Analysis. Harnessing accurate and high quality data, using expert knowledge, and taking an interdisciplinary approach to incorporating the information into the planning process is critical to effective and well executed planning.

Knowledge. Water and related land resources planning can only be successful when using knowledge and expertise effectively, as well as, the best information available in each step of the process. Objectivity and the elimination of sources of potential bias are critical in the planning process.

Accuracy and Quality of Data. Decision-making can be of the highest quality when it is founded on the best available data and models with high degrees of accuracy in hydrology, engineering, geology, ecology, other physical and life sciences, economics and other relevant social sciences.

Interdisciplinary Planning. Due to the complicated nature of water and related land resources planning, an interdisciplinary team approach to planning will ensure the proper

integration of engineering, physical and life sciences, social sciences, economics, and environmental design. Success in planning is best achieved by matching appropriate planning disciplines to the planning issues to be addressed.

Peer Review. Peer review by experts from within the agency is an important element of successful planning. It can add to the knowledge available to planners and is best integrated into the planning process on an ongoing basis. Where appropriate, outside independent experts should be brought into the planning process to confirm the agency's analytical methods and analysis, the conclusions of the report based on these methods and analysis, or the way in which the agency conducted the planning process.

Risk and Uncertainty. Water and related land resources planning, even with the best engineering, science, economics and other knowledge possible, will still have elements of risk (probability of occurrence) and uncertainty (imprecision of measurements and analysis). It is important to explicitly identify, characterize, and document the risks and uncertainty throughout the planning process. A clear description of the risks and uncertainties adds important value to the planning process by allowing decisions to be made with full knowledge of the degree of reliability and the limits of the data and information used.

6. Conditions. Gathering information on the conditions in an area that is relevant to the planning issues under study is essential before defining a series of alternatives. Though conditions may change or become better defined during the planning process, it is essential to understand the conditions that are important to the planning issue and developing the assumptions based on those conditions in a logical, clear and transparent manner.

Inclusion of Other Parties. Other interested Federal agencies, state and local agencies, affected groups and individuals, Native American tribes with an interest, and the public at large are to be provided a full opportunity to inform decisions throughout the planning process, including providing data and evidence necessary for plan formulation and evaluation.

Inventory of Current Conditions. An inventory of current water and related land resources conditions in the area of the watershed that either is contributory to or affected by the planning effort is an integral part of being able to describe the existing conditions. An inventory, sufficiently broad in scale to encompass all significant causes and effects is integral to the planning process. Significant physical, economic, ecological, safety, cultural, social, aesthetic, and other relevant conditions that are part of this inventory provide a snapshot of the present, and are a consequence of the past. Therefore, the inventory is likely to include the relevant geologic, geomorphologic, hydrologic, climatic, economic, cultural, social, land use, and other historic data necessary to build the picture of the present.

An inventory, which is expanded as needed to assist the planning process, can be used throughout the process to advance the national planning objective—for example, to revise the statement of problems and opportunities or further define them; to identify or revise the study objectives; to sharpen the planning focus or change its direction or emphasis; and to inform the formulation and refinement of alternative plans and the evaluation of those plans.

Projection of with and without Plan Conditions. The world is dynamic and planning for the uncertain future requires a reasonable forecast of future events and outcomes. The inventory and analysis of current conditions provides the baseline data for use in forecasting future conditions.

A specific set of assumed future conditions, based on the best estimate of the conditions that are likely to prevail in the presence and in the absence of a proposed action, is one approach to look at future conditions. The with and without plan condition is an objectively based, extrapolation of current conditions into the future which serves as one basis for estimating and evaluating the cost, effectiveness, and beneficial and adverse effects of the alternative plans.

The development of the with and without plan condition is guided primarily by what is known and is the key part of the planning process that drives justification of recommended projects. Assumed changes from the present to the future are based on a series of observed past events that provide a reasonable basis to quantify the probability of occurrence of a similar trend into the future.

The future conditions also reflect any such changes that are likely to occur under current government policy. As these are the basis for future analyses, it is important that the rationale for development of these conditions be clearly documented.

7. Plan Formulation. Plan formulation is undertaken to determine the Federal interest in solving identified water resources problems. This is accomplished by creating a full range of alternative plans meeting the national planning objective while reflecting the study objectives for water and related land resources projects. While development of alternatives is generally unconstrained, the development of alternatives must take into account the ability to implement that plan in consideration of Federal and non-Federal resources considering their availability for water resources purposes nationwide is finite—both at any point in time and over the long-term.

7.1 General Considerations.

Structural Plans. Structural plans are those that intentionally modify existing hydrologic and geomorphic processes, including most aquatic ecosystem restoration plans.

Non-Structural Plans. Non-structural plans are those that avoid or minimize changes to the existing hydrologic and geomorphic processes by changed management or use of existing infrastructure or by emphasizing alternatives that manage human activity and development. Nonstructural alternatives also often avoid or minimize adverse impacts in the aquatic environment.

Public Safety. Addressing concerns over public safety is achieved by assuring infrastructure is reliable, and that risks posed to human life and security are avoided, reduced, or mitigated consistent with current engineering standards and are a component of both structural and nonstructural plans. Additionally, plans that clearly describe any residual risk, the measures to address or manage that risk, its resiliency, and the associated components of cooperation needed to assure public safety stand to add value and understanding to the planning process.

Environmental. Addressing concerns over adverse environmental impact and how to avoid, minimize, and mitigate these impacts on the environment are a component of both structural and nonstructural plans.

Key Assumptions. Important to the planning process is understanding and explicitly stating the key assumptions, the supporting rationale for these assumptions, and the predicted and achieved outcomes based on similar approaches used in the past that have relied heavily on these assumptions.

Lifecycle Considerations. An ongoing evaluation of the lifecycle and ability of current systems to meet contemporary needs is especially valuable during the planning process. The planning process provides an opportunity to evaluate and examine whether extensively modifying operations, adding features, or

discontinuing features would contribute to the national planning objective.

Wide Range of Plans. A range of alternative plans, significantly differentiated from each other in terms of their composition of measures, the extent to which they comport with the national planning objective, and their scale and features, are necessary to have the greatest chance of identifying the best plan for addressing the planning issues.

Integration with Other Plans. Alternative plans that are consistent with other established Federal, State, local and Tribal plans can add value to the alternatives. This includes any synergy with other entities watershed plans, aquatic ecosystem plans, and integrated water resource management plans or any elements contained within them. The inclusion of clear and explicit descriptions and consideration of these other entities' plans as well as describing the similarities and differences, synergies and discrepancies, potential implementation coordination, and other relevant explanations of their plans adds clarity to the planning process.

Consistency with Existing Statutes, Regulations & Policies. Addressing concerns over the implementability of plans is best addressed by including plans that are consistent with existing statutes, regulations and policies along with describing explicitly how they influence the planning process. Statutory, regulatory, and/or policy changes necessary to facilitate a plan should be described in detail.

7.2 Alternative Plans. Plans are formulated from combinations of structural and nonstructural measures that address the planning problems and opportunities.

Required Alternatives. In order to facilitate the development of the widest range of practical alternative plans, the following required alternatives constitute the minimum series of plans necessary. The concept of a practical alternative plan means that any of the required alternatives below can and often will include elements that meet the other objectives.

National Economic Development (NED) Plan: A plan that primarily maximizes the net contributions to the NED objective as part of the national planning objective.

Environmental Quality (EQ) Plan: A plan that primarily maximizes the net quantity or quality of the environmental quality objective as part of the national planning objective.

Primarily Nonstructural Plan: A plan which primarily employs nonstructural elements, and as a secondary consideration adds structural features to address the planning issues.

8. Evaluation of Plans. All plans should be well characterized, explained, and justified. The thorough evaluation of the range of plans developed requires an open assessment of the plans ability to meet the evaluative criteria that begins with, but is not limited to, the national planning objective. Additionally, evaluating the effects of each alternative plan includes, but is not limited to, its impacts on current and potential future uses of the water resources and related land uses throughout the watershed, impacts and potential effects of climate change, the relationship of each alternative plan to other relevant water and related land resources projects, and the relationship of each alternative plan to other existing plans.

8.1 General Considerations.

Interdisciplinary Team Evaluation. An interdisciplinary team approach to the plan evaluation process can ensure the integration of engineering, economics, natural and social sciences, and the environment in a balanced manner based on the planning issues to be addressed. The disciplines of the planners are to be appropriately matched to the planning issues, and appropriate consultation and inclusion of those with specialized expertise is integral to develop a balanced plan that addresses the issues of concern.

Multi-Criterion Evaluation, Consistency & Transparency. Evaluating each plan against each criterion in a comparative manner (e.g., matrix) facilitates the planning process. Effects accounted for in one account should only be used once in order to maintain the consistency of the evaluation methodology. Not all criteria can be quantified in a similar manner, therefore clearly describing the quantified value, the range of the scale, including any weighting factor, justification for the weighting factor, and the value used, along with how the weighting factor affected the overall plan, will produce multi-criterion evaluation for each alternative plan.

8.2 Required Accounts. In order to facilitate the evaluation of the range of alternative plans, the following required accounts constitute the minimum evaluative framework necessary.

The following five accounts are used to catalogue the significant effects of an alternative on the human environment.

Public Safety (PS): The safety of populations at risk.

National Economic Development (NED): The effects on the national economy.

Environmental Quality (EQ): The effects on the ecological, cultural, aesthetic and other attributes of natural and cultural resources.

Regional Economic Development (RED): The effects on the regional economy, including income effects, income transfers, and employment effects not addressed in the NED account.

Other Social Effects (OSE): The effects on the urban or communities quality of life and health.

9. Plan Selection. The planning process leads to the identification of alternative plans that could be recommended or selected. These plans are referred to as the final array of plans including the required plans. The culmination of the planning process is the selection of the recommended plan from among the final array of plans, including a potential decision to take no action. The selection of the recommended plan, as with the development of alternatives, must be cognizant of the national planning objective, national mission authorities and of the availability of Federal and non-Federal resources available for water and water related resources.

9.1 Selection Criteria.

National Planning Objective Criterion. The Chief of Engineers may propose a water and related land resources plan that involves Federal action only if that plan would advance the national planning objective. The goal is to formulate and propose a series of projects over time across the Nation, which together will amount in effect to an implementable national water resources plan.

Net Beneficial Effects Criterion. A recommended plan (when considered on the basis of the with-plan versus without-plan comparison) must have combined NED and beneficial EQ effects that outweigh the combined NED and adverse EQ effects. Where both benefits and costs of the plans can be quantified and expressed in monetary terms, then these values will be produced to provide information on the net beneficial effects of the plan. Where benefits cannot be monetized with reasonable accuracy, or when statutes or other authorities require non-monetary values, water and related land resource plans should present the results of an incremental cost-effectiveness analysis and otherwise continue to provide the information called for in the multi-criterion evaluation process.

Uncertainty Criterion. Where significant uncertainty regarding a future trend exists, both the option of no action and an alternative plan based on proceeding in steps, using an

incremental adaptive management approach should be compared to one another, and the better of these two options should be pursued.

9.2 Project Types.

Commercial Navigation & Hydropower. For commercial navigation and hydropower features, the plan with high net economic return (benefit cost ratio of at least 1.5) to the Nation for each increment of such work, consistent with protecting the environment, will be considered minimally acceptable. Plans that address the most critical needs and have an increasingly higher benefit cost ratio should be more heavily weighted in the selection process.

Flood and Storm Damage Reduction. Flood and storm damage reduction features could include structural and non-structural components. As both monetary and non-monetary values are likely to be part of the decision process when non-structural components are included, a comparative approach as identified in the Multi-Criterion Evaluation, Consistency & Transparency section will provide the clarity in these situations for decision making. Where benefits are measured in monetary values only, the plan with high net economic return (benefit cost ratio of at least 1.5) to the Nation for each increment of such work, consistent with protecting the environment, will be considered minimally acceptable. Plans that address the most critical needs and have an increasingly higher benefit cost ratio should be more heavily weighted in the selection process. Generally, when structural and non-structural components provide viable options when considering all evaluation criteria, including benefits, costs and adverse effects, preference should be given to non-structural components so long as the monetary benefits are at least at unity. If the non-monetary benefits represent a majority of the total benefits and are of National significance, then consideration can be given to selecting a plan with monetary benefits less than unity.

Aquatic Ecosystem Restoration. For aquatic ecosystem restoration features, the plan that is cost-effective, sustainable, and is the alternative plan that best reflects an appropriate level to invest for that ecosystem from a national perspective, after considering the national or regional significance and cost of protecting or restoring that ecosystem compared to others will be considered as minimally acceptable for selection. Plans that address the most critical ecological needs using the minimum action needed to substantially improve the natural functions or services with increasingly higher cost effectiveness should be more heavily weighted in the selection process.

Multiple Objectives. For multiple objective projects with features and increments of work whose benefits and costs are jointly distributed among more than one objective, each such feature or increment of work should yield a net overall return to the Nation after considering its cost, effectiveness, and other beneficial and adverse effects. Where the benefits are measured in monetary values only; those with high net economic return (benefit cost ratio of at least 1.5) to the Nation for each increment of such work, consistent with protecting the environment, will be considered minimally acceptable. Plans that address the most critical needs and have an increasingly higher benefit cost ratio should be more heavily weighted in the selection process. Where plans have both monetary and non-monetary values, a comparative approach as identified in the Multi-Criterion Evaluation, Consistency & Transparency section is to be used to inform a decision. The monetary benefits of a multi-criteria plan must at least be unity. If the non-monetary benefits represent a majority of the total benefits and are of national significance, then consideration can be given to selecting a plan with monetary benefits less than unity.

9.3 Agency Exception. The Secretary will ordinarily consider exceptions to the selection criteria under the following circumstances: where there are overriding reasons for doing so, including safety and other Federal, State, local, Tribal, and international concerns. The reasons for an exception are to be given in a request from the Chief of Engineers and must be appropriately documented. The full planning process carried forth through the study must be documented, completed and submitted along with the documented exception in order to uphold the ideal of a transparent process.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E8–21294 Filed 9–11–08; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for the Intake Diversion Dam Modification, Lower Yellowstone Project, Montana

AGENCIES: Bureau of Reclamation, Interior, and Corps of Engineers, Army.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) for the Intake Diversion Dam Modification, Lower Yellowstone Project, Montana.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, and the Council on Environmental Quality's (CEQ) regulations for implementing the procedural provisions of NEPA, the Bureau of Reclamation (Reclamation) and the U.S. Army, Corps of Engineers (Corps) propose to jointly prepare an EIS that analyzes and discloses effects associated with modifications to Intake Diversion Dam. The proposed Federal action is to modify Intake Diversion Dam and canal headworks, features of Reclamation's Lower Yellowstone Project, to improve passage and reduce entrainment for endangered pallid sturgeon and other native fish in the lower Yellowstone River.

Reclamation and the Corps will serve as joint lead Federal agencies in the preparation of the Intake Diversion Dam Modification EIS. Reclamation will act as administrative lead for NEPA compliance activities during preparation of the EIS. Reclamation and the Corps will each consider and approve a Record of Decision regarding actions and decisions for which the respective agencies are responsible.

DATES: Public scoping meetings will be held in October 2008. See the **SUPPLEMENTARY INFORMATION** section for dates and locations of these meetings. Written or e-mailed comments on the scope of issues and alternatives to be considered in the Draft EIS will be accepted through November 14, 2008.

ADDRESSES: Written comments and requests to be added to the mailing list may be submitted to Bureau of Reclamation, Montana Area Office, Attention: Paula Holwegner, P.O. Box 30137, Billings, MT 59107.

FOR FURTHER INFORMATION CONTACT: Paula Holwegner, Bureau of

Reclamation, Montana Area Office, P.O. Box 30137, Billings, MT 59107; telephone (406) 247–7300; or facsimile to (406) 247–7338. You may submit comments, requests, and/or other information by e-mail to *pholwegner@gp.usbr.gov*.

SUPPLEMENTARY INFORMATION:

Dates of Public Scoping Meetings

- October 21, 2008, 5:30 p.m.–8:30 p.m., Sidney, MT
- October 22, 2008, 5:30 p.m.–8:30 p.m., Glendive, MT
- October 23, 2008, 5:30 p.m.–8:30 p.m., Billings, MT

Locations of Public Scoping Meetings

- Community Services Building—1201 West Holly, Sidney, MT
- Dawson Community College—300 College Drive—Ullman Center Room 102, Glendive, MT
- Montana State University Downtown Campus—207 North Broadway, Billings, MT

The meeting facilities are physically accessible to people with disabilities. People needing special assistance to attend and/or participate in the public hearings should contact Patience Hurley at 701–221–1204 in the Dakotas Area Office in Bismarck as soon as possible. To allow sufficient time to process special requests, please call no later than one week before the public hearing of interest.

Background Information

Reclamation's Lower Yellowstone Project is located in eastern Montana and western North Dakota. Intake Diversion Dam is located approximately 70 miles upstream of the confluence of the Yellowstone and Missouri rivers near Glendive, Montana. The Lower Yellowstone Project was authorized by the Secretary of the Interior on May 10, 1904. Construction of the Lower Yellowstone Project began in 1905 and included Intake Diversion Dam (also known as Yellowstone River Diversion Dam)—a 12-foot high wood and stone diversion dam that spans the Yellowstone River and diverts water into the Main Canal for irrigation. The Lower Yellowstone Project was authorized to provide a dependable water supply sufficient to irrigate approximately 52,000 acres of land on the benches above the west bank of the Yellowstone River. Water is also supplied to irrigate approximately 830 acres in the Intake Irrigation Project and 2,200 acres in the Savage Unit. Both of the smaller irrigation projects pump water from the Main Canal. The average annual volume of water diverted for these projects is 327,046 acre-feet.

The Service listed the pallid sturgeon as endangered under the ESA in 1990. The wild population of pallid sturgeon inhabiting the Yellowstone River and the Missouri River between Fort Peck Dam and Lake Sakakawea are anticipated to be extirpated by 2017 if reproduction and recruitment of young fish does not improve. The best available science suggests Intake Diversion Dam impedes upstream migration of pallid sturgeon and their access to spawning and larval drift habitats. In addition, previous entrainment studies on other native fish in the Yellowstone River suggest that once passage is provided, pallid sturgeon may be entrained in the Main Canal.

The lower Yellowstone River is considered to provide one of the best opportunities for recovery of pallid sturgeon. Section 7(a)(1) of the ESA directs Federal agencies to utilize their authorities to further the purposes of the ESA by carrying out conservation programs for listed species. Reclamation has been in informal consultation with the Service to identify potential conservation measures to minimize adverse effects to pallid sturgeon associated with continued operation of the Lower Yellowstone Project on the Yellowstone River. The Pallid Sturgeon Recovery Plan specifically identifies providing passage at Intake Diversion Dam to protect and restore pallid sturgeon populations. By providing passage at Intake Diversion Dam, approximately 160 river miles of spawning and larval drift habitat would become available in the Yellowstone River. By installing fish entrainment reduction measures, pallid sturgeon entrainment in the Main Canal would be minimized.

The Service recommended in their 2003 amendment to the Missouri River Master Manual biological opinion that the Corps assist Reclamation in providing passage for pallid sturgeon at Intake Diversion Dam as a conservation recommendation. Section 3109 of the 2007 Water Resources Development Act authorizes the Corps to use funding from the Missouri River Recovery and Mitigation Program to assist Reclamation with compliance, design, and construction of modifications to the Lower Yellowstone Project for purposes of ecosystem restoration.

Reclamation initiated a collaborative effort with the Service; Corps; Montana Fish, Wildlife and Parks; Lower Yellowstone Irrigation District; and The Nature Conservancy through a Memorandum of Understanding (MOU) signed on July 8, 2005. Reclamation coordinated a value planning study in August 2005 with representatives from parties signatory to the MOU to explore and evaluate a broad range of alternatives for fish passage and entrainment reduction.

Reclamation and the Corps will use a broad range of scoping activities to fully identify the range of potentially significant issues, actions, alternatives, and impacts to be considered in the EIS. These scoping activities will ensure the public has sufficient opportunity to review and comment on the proposed Federal action and reasonable alternatives for fish passage and entrainment reduction at Intake Diversion Dam. Public comments are invited and encouraged to assist agencies in identifying the scope of potentially significant environmental, social, and economic issues relevant to the proposed Federal action and determining reasonable alternatives to be considered in the EIS.

Reclamation and the Corps have scheduled three public scoping meetings and are inviting agencies, tribes, non-governmental organizations, and the public to participate in an open exchange of information and to provide comments on the proposed scope of the EIS.

Preliminary Alternatives

As required by CEQ's implementing regulations, all reasonable alternatives to the proposed Federal action that meet the purpose and need will be considered in the EIS. These alternatives will include no action and a range of reasonable alternatives for improving fish passage and reducing entrainment. Appropriate mitigation measures will be incorporated into the proposed action and reasonable alternatives. The EIS will analyze and disclose environmental impacts associated with the proposed Federal action and alternatives together with engineering, operations and maintenance, social, and economic considerations. Through MOU partner discussions and evaluations, alternatives for passage have been identified, discussed, and analyzed. Preliminary alternatives to improve fish passage include the following:

(1) Passage around the existing diversion dam;

(2) Relocation of the diversion dam and canal headworks to take advantage of hydrology and topography;

(3) Removing the dam and constructing a single or multiple pumping plants; and

(4) Variations of a low-gradient rock ramp in the river.

The preliminary alternatives for reducing entrainment include:

(1) A fish screen structure in the Main Canal with fish bypass to river; and

(2) A rotary drum fish screen on the bank of the river.

The EIS will also include a no action alternative that does not improve fish passage or reduce entrainment. The public is invited and encouraged to identify other reasonable alternatives to improve fish passage and reduce entrainment at the Intake Diversion Dam and canal headworks.

Preliminary Identification of Environmental Issues

A range of issues relevant to the proposed Federal action have tentatively been identified for consideration and analysis in the EIS. This list is preliminary and is intended to facilitate public comment on the scope of this EIS. Reclamation and the Corps invite you to comment on the following general questions that reflect potentially significant issues or questions of widespread public interest believed to be relevant to the proposed Federal action. Reclamation and the Corps invite and encourage comments that identify other potentially significant issues and effects that you believe should be addressed in the EIS.

How would the proposed action affect or address the following:

- Aquatic communities and habitats in the lower Yellowstone River?
- Delivery of irrigation water for the Lower Yellowstone Project?
- Continued operation and viability of irrigated agriculture in the Lower Yellowstone Project?
- Water-based recreation, such as changes to boat ramps and/or changes to angling opportunities for paddlefish and other fish?
- Economic conditions related to the paddlefish caviar industry?
- Social and economic conditions in affected communities associated with construction activities and long-term operation and maintenance, including paddlefish caviar harvest and concession activities?
- Short-term and long-term impacts on surface water quality?
- Floodplain, wetlands, and riparian communities?
- Water quantity associated with operations and climate change?
- Land-based recreation, including possible changes to the public park area and river access?
- Relevant cumulative environmental impacts to the Yellowstone River from past, present, and reasonably foreseeable future actions?
- Cultural resources such as historic, archaeological, architectural, or traditional properties?
- Environmental justice, particularly whether or not water management activities have a disproportionate adverse effect on minority and low-income populations?
- Compliance with all applicable Federal, State, and local statutes and regulations and with international agreements and required Federal and State environmental permits, consultations, and notifications?
- Compliance with all applicable executive orders?

Public Disclosure Statement

Reclamation and the Corps believe it is important to inform the public of the environmental review process. To assist Reclamation and the Corps in identifying and considering issues related to the proposed Federal action, comments made during formal scoping and later on the draft EIS should be as specific as possible. Reviewers must structure their participation in the environmental review of the proposal so that it is meaningful and alerts Reclamation and the Corps to the reviewer's position and contentions. It is very important that those interested in this proposed Federal action participate by the close of the scoping period so that substantive comments and objections are made available to Reclamation and the Corps at a time when they can meaningfully consider and respond to them.

If you wish to comment, you may mail or e-mail your comments as indicated under the **ADDRESSES** section. Before including your name, address, phone number, e-mail address, or any other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information may be made available to the public at any time.

While you can request in your comment for us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: September 5, 2008.

Michael J. Ryan,

Regional Director, Great Plains Region, Bureau of Reclamation.

Witt Anderson,

Director, Programs, Northwestern Division, Corps of Engineers.

[FR Doc. E8–21188 Filed 9–11–08; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Proposed Folsom South of U.S. Highway 50 Specific Plan Project, in Sacramento County, CA, Corps Permit Application Number SPK–2007–02159

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent.

SUMMARY: The South Folsom Property Owners Group proposes to implement a large-scale, mixed-use, mixed-density master planned community with residential, commercial, office, public/quasi-public uses, open space, and parks. The proposed project consists of approximately 1,464 acres of residential development, 523 acres of mixed-use and commercial development, 109 acres of parks, and 1,053 acres of open space. The majority of the 1,053 acres of open space would be located in the western portion of the project site. This area includes Alder Creek, numerous cultural resources sites, and the highest concentration of oak woodland habitat within the project site.

The proposed Folsom South of 50 Specific Plan includes development of up to 10,045 mixed-density residential homes and approximately 7.4 million square feet of retail and office uses within an area south of Highway 50 that would be annexed to the City of Folsom. The proposed project would provide five elementary schools, one joint middle school/high school, and a campus for the Sacramento County Day School. It is anticipated that construction would begin in 2010. The initiation and duration of construction would depend on market conditions and receipt of environmental permits and clearances; full build-out would likely be completed within 20 years from construction commencement.

The project site is approximately 3,502 acres and contains 82.89 acres of waters of the United States. The proposed project would directly affect approximately 21.28 acres of waters of the United States, including vernal pools and other wetlands. These acreages do not include indirect impacts from the proposed action or impacts anticipated to result from off-site infrastructure that may be determined to be required as part of the U.S. Army Corps of Engineers' (USACE) Environmental Impact Statement (EIS) process.

The EIS will be prepared as a joint document with the City of Folsom. The

City is the local agency responsible for preparing an Environmental Impact Report in compliance with the California Environmental Quality Act (CEQA).

DATES: The Corps and the City of Folsom will jointly conduct a public scoping meeting that will be held on Thursday, September 25, 2008 from 5 p.m. to 7 p.m.

ADDRESSES: The scoping meeting will be held at the Folsom Public Library located at 411 Stafford Street, Folsom, CA.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa Gibson, (916) 557–5288, e-mail: *lisa.m.gibson2@usace.army.mil.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to submit written comments on the permit application on or before October 1, 2008. Scoping comments should be submitted within the next 60 days, but may be submitted at any time prior to publication of the Draft EIS. To submit comments on this notice or for questions about the proposed action and the Draft EIS, please contact Lisa Gibson, 1325 J Street (Room 1480), Sacramento, CA 95814–2922. Parties interested in being added to the Corps' electronic mail notification list for the proposed project can register at: *http://www.spl.usace.army.mil/regulatory/register.html.* Please refer to Identification Number SPK–2007–02159 in any correspondence.

The South Folsom Property Owners Group consists of seven property owners. Each property owner would file an application for Department of the Army authorization under Section 404 of the Clean Water Act. The City of Folsom has filed a permit application for the proposed project. Because these applications are interrelated, USACE is considering them in a comprehensive and combined manner. The joint purpose of these applications is to construct a large-scale, mixed-use, mixed-density master planned community and associated supporting infrastructure. To comply with the National Environmental Policy Act (NEPA), USACE has decided to prepare an EIS to assess the potential impacts to waters of the United States from these combined applications.

The proposed Folsom South of 50 Specific Plan project site lies within unincorporated Sacramento County, CA, immediately south of the City of Folsom's existing city limits. The site is within the City of Folsom's Sphere of Influence (SOI). It is located south of U.S. Highway 50, north of White Rock Road, east of Prairie City Road, and west of the El Dorado County line.

Preliminary wetland delineations of the project site show that a total of 82.89 acres of waters of the United States are present within the proposed project area, including 4.11 acres of vernal pools, 24.43 acres of seasonal wetland swales, 4.75 acres of seasonal wetlands, 1.25 acre of freshwater marsh, 10.46 acres of freshwater seeps, 7.72 acres of ponds, 17.80 acres of stream channels (relatively permanent waters), 10.43 acres of ephemeral drainage channels (non relatively permanent waters), and 1.93 acres of ditches. The City of Folsom has applied to fill approximately 21.28 acres of these waters to construct the proposed project. These acreages do not include indirect impacts from the proposed action or impacts anticipated to result from off-site infrastructure that may be determined to be required to support the proposed project as part of the EIS process.

The EIS/EIR will include alternatives to the Proposed Action that will meet both NEPA and CEQA requirements. The alternatives will also meet the requirements of CWA Section 404(b)(1) Guidelines. At this time it is expected that the joint EIS/EIR will evaluate the following on-site alternatives: (1) No Action Alternative; (2) Proposed Action; (3) Resource Impact Minimization Alternative; (4) Centralized Development Alternative; (5) Reduced Hillside Development Alternative; (6) No Build Alternative; and at least one off-site alternative.

The Corps' public involvement program includes several opportunities to provide verbal and written comments on the proposed Folsom South of 50 Specific Plan project through the EIS process. Affected federal, state, and local agencies, Native American tribes, and other interested private organizations and parties are invited to participate. Potentially significant issues to be analyzed in depth in the EIS include loss of waters of the United States (including wetlands), and impacts related to cultural resources, biological resources, air quality, hydrology and water quality, noise, traffic, aesthetics, utilities and service systems, and socioeconomic effects.

USACE would initiate formal consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act for the proposed impacts to listed species. USACE would also consult with the State Historic Preservation Office under Section 106 of the National Historic Preservation Act for properties listed or potentially eligible for listing on the National Register of Historic Places, as appropriate.

The joint lead agencies expect the Draft EIS/EIR to be made available to the public in the summer 2009.

Dated: August 22, 2008.

Thomas C. Chapman,

Colonel, U.S. Army, District Engineer.

[FR Doc. E8–21289 Filed 9–11–08; 8:45 am]

BILLING CODE 3710–EH–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Hearings for the Naval Sea Systems Command Naval Undersea Warfare Center, Keyport Range Complex Extension Draft Environmental Impact Statement/ Overseas Environmental Impact Statement

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 (42 United States Code [U.S.C.] 4321); the Council on Environmental Quality (CEQ) Regulations for implementing the procedural provisions of NEPA (Title 40 Code of Federal Regulations [CFR] Parts 1500–1508); Department of the Navy Procedures for Implementing NEPA (32 CFR 775); Executive Order (EO)12114, Environmental Effects Abroad of Major Federal Actions; and Department of Defense (DoD) regulations implementing EO 12114 (32 CFR Part 187), the Department of the Navy (Navy) has prepared and filed with the U.S. Environmental Protection Agency a Draft Environmental Impact Statement/ Overseas Environmental Impact Statement (EIS/OEIS) on September 3, 2008. The National Marine Fisheries Service (NMFS) is a Cooperating Agency for the EIS/OEIS.

The EIS/OEIS evaluates the potential environmental impacts associated with current and proposed research, development, testing, and evaluation (RDT&E) and related activities scheduled and coordinated by Naval Undersea Warfare Center (NUWC) Keyport at the Naval Sea Systems Command (NAVSEA) NUWC Keyport Range Complex in Washington State. The proposed action includes an extension of the operational areas of the NAVSEA NUWC Keyport Range Complex and small increases in the average annual number of tests and days of testing at two of the three range sites that comprise the Range Complex. A Notice of Intent for this Draft EIS/OEIS was published in the **Federal Register** on September 11, 2003 (68 FR 176).

The Navy will conduct four public hearings to receive oral and written comments on the Draft EIS/OEIS. Federal agencies, state agencies, and local agencies and interested individuals are invited to be present or represented at the public hearings. This notice announces the dates and locations of the public hearings for this Draft EIS/OEIS.

An open house session will precede the scheduled public hearing at each of the locations listed below and will allow individuals to review the information presented in the Draft EIS/OEIS. Navy representatives will be available during the open house sessions to clarify information related to the Draft EIS/OEIS.

DATES AND ADDRESSES: All meetings will start with an open house session from 5 p.m. to 6:30 p.m. A presentation and formal public comment period will be held from 7 p.m. to 9 p.m. Public hearings will be held on the following dates and at the following locations: Wednesday, October 1, 2008, at the Naval Undersea Museum, 610 Dowell Street, Keyport; Thursday, October 2, 2008, at North Mason Senior High School, 200 E. Campus Drive, Belfair; Monday, October 6, 2008, at Gray's Harbor Fire District #8, 4 First Street N., Pacific Beach; and Tuesday, October 7, Quilcene Public Schools, Multi-Purpose Room, 294715 Hwy 101, Quilcene.

FOR FURTHER INFORMATION CONTACT: Naval Facilities Engineering Command, Northwest, *Attention:* Ms. Kimberly Kler (EIS/OEIS PM), 1101 Tautog Circle, Suite 203, Silverdale, WA 98315–1101; *facsimile:* 360–396–0857; or *http://www-keyport.kpt.nuwc.navy.mil.*

SUPPLEMENTARY INFORMATION: The Department of the Navy (Navy) proposes to extend the operational areas associated with the NAVSEA NUWC Keyport Range Complex in Washington State. The Keyport Range Complex is composed of three geographically distinct range sites: The Keyport Range Site, Dabob Bay Range Complex (DBRC) Site, and the Quinault Underwater Tracking Range (QUTR) Site. The proposed action would provide additional operating space at each of the three range sites and would also include small increases in the average annual number of tests and days of testing at the Keyport Range Site and the QUTR Site. Portions of the proposed extension associated with the QUTR Site fall outside the 12-nautical mile (nm) (22-kilometer [km]) Territorial Waters established by Presidential Proclamation 5928. Therefore, this Draft EIS/OEIS has also been prepared in accordance with Navy procedures implementing Executive Order 12114 addressing components of the proposed action beyond U.S. Territorial Waters.

The purpose of the proposed action is to enable NUWC Keyport to continue fulfilling its mission of providing test and evaluation services and expertise to support the Navy's evolving manned and unmanned undersea vehicle program. NUWC Keyport has historically provided facilities and capabilities to support testing of torpedoes, other unmanned vehicles, submarine readiness, diver training, and similar activities that are critical to the success of undersea warfare. Technological advancements in the materials, instrumentation, guidance systems, and tactical capabilities of manned and unmanned vehicles continue to evolve in parallel with emerging national security priorities and threat assessments. In response, range capabilities and vehicle test protocols must also evolve in order to provide effective program support for such advancements.

The proposed action to extend range operational areas is needed because the existing Range Complex is becoming increasingly incapable of satisfying the existing and evolving operational capabilities and test requirements of next-generation manned and unmanned vehicles. The Navy requires a range complex with assets that provide a broader diversity of sea state conditions, bottom type, deeper water, and increased room to maneuver and combine activities. Extending the Range Complex operating areas as proposed would enable the Navy to better support current and future vehicle test requirements in multiple marine environments.

The proposed action would support current and evolving test requirements and range activities conducted at the NAVSEA NUWC Keyport Range Complex. The action also proposes increases in the average annual number of tests and days of testing at Keyport Range and QUTR Sites. As the three range sites within the NAVSEA NUWC Keyport Range Complex are geographically distinct, the set of alternatives for one range site is independent of the set of alternatives for another range site. One or more action alternatives have been identified for each range site (in addition to the No-Action Alternative):

- *Keyport Range Site:* Keyport Range Alternative 1 (Preferred Alternative)—extend range boundaries to the north, east, and south, increasing the size of the range from 1.5 square nautical miles (nm^2) to 3.2 nm^2 (5.2 square kilometers [km^2] to 11.0 km^2). The average annual days of use would increase from 55 to 60 days.
- *DBRC Site:* DBRC Alternative 1—extend the southern boundary of this range approximately 10 nm (19 km). DBRC Alternative 2 (Preferred Alternative)—extend the southern boundary approximately 10 nm (19 km), and the northern boundary to 1 nm (2 km) south of the Hood Canal Bridge, increasing the size of the range from 32.7 nm^2 to 45.7 nm^2 (112.1 km^2 to 156.7 km^2). There would be no increase in average annual days of use under either DBRC alternative.
- *QUTR Site:* QUTR Alternative 1—extend the range boundaries to coincide with the overlying special use airspace of W–237A plus locate an 8.4 nm^2 (28.8 km^2) surf zone at Kalaloch. The total range area under QUTR Alternative 1 would increase from approximately 48.3 nm^2 (165.5 km^2) to approximately 1,840.4 nm^2 (6,312.4 km^2). QUTR Alternative 2 (Preferred Alternative)—extend the range boundaries the same as Alternative 1 but locate a 7.8 nm^2 (26.6 km^2) surf zone at Pacific Beach instead of at Kalaloch. The total range area under QUTR Alternative 2 would be 1,839.8 nm^2 (6,310.2 km^2). QUTR Alternative 3—extend the range boundaries the same as Alternative 1 but locate a 22.6 nm^2 (77.6 km^2) surf zone at Ocean City instead of at Kalaloch. The total range area under QUTR Alternative 3 would be 1,854.6 nm^2 (6,361.2 km^2). For all three QUTR alternatives, the average annual use for offshore activities would increase from 14 days to 16 days and activities in the selected surf zone would occur an average of 30 days per year.

The Navy considered a number of other alternatives that were potentially able to support the NUWC Keyport mission. These testing alternatives were initially screened and evaluated to determine their ability to meet the minimum operational selection criteria but were eliminated from consideration due to their inconsistency with the mission and strategic vision for NUWC Keyport and with the purpose and need for the Proposed Action. Three additional surf zone alternatives were initially considered but eliminated from consideration because they did not meet the screening criteria for the Proposed Action. Therefore, these alternatives were not carried forward for analysis in the EIS/OEIS.

Section 1502.14(d) of the CEQ guidelines requires that the alternatives analysis in the EIS ''include the alternative of no action.'' In its NEPA's Forty Most Asked Questions, CEQ identifies two distinct interpretations of ''no action.'' The interpretation selected

by the action proponent depends on the nature of the proposal being evaluated. One interpretation of the No-Action alternative is that the proposed activity would not take place. This would mean that Navy would not conduct test or training activities in the Range Complex. This interpretation does not meet the purpose and need of the proposed action and would neither be reasonable nor practical. The other interpretation of the No-Action alternative is ''no change from current management direction or level of management intensity.'' This interpretation would meet the purpose and need of the proposed action and would allow the Navy to compare the potential impacts of the proposed action to the impacts of maintaining the status quo. With regard to this EIS/OEIS, the No-Action Alternative represents the regular and historic level of activity on the Range Complex. Thus, the No-Action Alternative serves as a baseline ''status quo'' when studying levels of range use and activity. In the Draft EIS/OEIS, the potential impacts of the current level of RDT&E and fleet activity on the NAVSEA NUWC Keyport Range Complex (defined by the No-Action Alternative) are compared to the potential impacts of activities proposed under the action alternatives.

The Navy analyzed potential effects of its current and proposed activities on marine mammals, fish, sea turtles, marine flora and invertebrates, terrestrial wildlife, sediments and water quality, cultural resources, recreation, land and shoreline use, public health and safety, socioeconomics and environmental justice, and air quality.

No significant adverse impacts are identified for any resource area in any geographic location within the NAVSEA NUWC Keyport Range Complex Study Area that cannot be mitigated, with the exception of exposure of marine mammals to underwater sound. The Navy has requested from NMFS a Letter of Authorization (LOA) in accordance with the Marine Mammal Protection Act to authorize the incidental take of marine mammals that may result from the implementation of the activities analyzed in the NAVSEA NUWC Keyport Range Complex Extension Draft EIS/OEIS. In compliance with the Magnuson-Stevens Fisheries Conservation Management Act, the Navy is in consultation with NMFS regarding potential impacts to Essential Fish Habitat. In accordance with section 7 of the Endangered Species Act, the Navy is consulting with NMFS and U.S. Fish and Wildlife Service (USFWS) for potential impacts to federally listed species. The Navy is coordinating with the Washington Department of Ecology for a Coastal Consistency Determination under the Coastal Zone Management Act. Navy analysis has indicated that under the Clean Air Act requirements, no significant impacts would occur to the regional air quality and under the Clean Water Act there would be no significant impacts to water quality. National Historic Preservation Act analysis indicated that no significant impacts to cultural resources would occur if the proposed action or alternatives were implemented. Implementation of the No Action Alternative or any of the proposed action alternatives would not disturb, adversely affect, or result in any takes of bald eagles. None of the alternatives would result in a significant adverse effect on the population of a migratory bird species.

The decision to be made by the Assistant Secretary of the Navy (Installations & Environment) is to determine which alternatives analyzed in the EIS/OEIS best meet the needs of the Navy given that all reasonably foreseeable environmental impacts have been considered.

The Draft EIS/OEIS was distributed to Federal, State, and local agencies, elected officials, and other interested individuals and organizations on September 12, 2008. The public comment period will end on October 27, 2008. Copies of the Draft EIS/OEIS are available for public review at the following libraries:

- Aberdeen Timberland Library, 121 E. Market St., Aberdeen, WA
- Hoodsport Timberland Library, N. 40 Schoolhouse Hill Road, Hoodsport, WA
- Jefferson County Rural Library District, 620 Cedar Avenue, Port Hadlock, WA
- Kitsap Regional Library, 1301 Sylvan Way, Bremerton, WA
- North Mason Timberland Library, 23801 NE State Rt. 3, Belfair, WA
- Ocean Shores Public Library, 573 Pt. Brown Ave., NW., Ocean Shores, WA
- Port Orchard Library, 87 Sidney St., Port Orchard, WA
- Port Townsend Public Library, 1220 Lawrence St., Port Townsend, WA
- Poulsbo Branch Library, 700 NE Lincoln St., Poulsbo, WA
- Quinault Indian Nation Tribal Library, P.O. Box 189, Taholah, WA
- Skokomish Tribal Center, N 80 Tribal Center Road, Shelton, WA

The NAVSEA NUWC Keyport Range Complex Extension Draft EIS/OEIS is also available for electronic public viewing at: *http://www-keyport.kpt.nuwc.navy.mil.* A paper copy of the Executive Summary or a single CD with the Draft EIS/OEIS will be made available upon written request by contacting Naval Facilities Engineering Command, Northwest, Attention: Mrs. Kimberly Kler (EIS/OEIS PM), 1101 Tautog Circle, Suite 203, Silverdale, WA 98315–1101; facsimile: 360–396–0857.

Federal, State, and local agencies and interested parties are invited to be present or represented at the public hearing. Written comments can also be submitted during the open house sessions preceding the public hearings.

Oral statements will be heard and transcribed by a stenographer; however, to ensure the accuracy of the record, all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on the Draft EIS/OEIS and will be responded to in the Final EIS/OEIS. Equal weight will be given to both oral and written statements. In the interest of available time, and to ensure all who wish to give an oral statement have the opportunity to do so, each speaker's comments will be limited to three (3) minutes. If a long statement is to be presented, it should be summarized at the public hearing with the full text submitted either in writing at the hearing, or mailed or faxed to Naval Facilities Engineering Command, Northwest, *Attention:* Mrs. Kimberly Kler (EIS/OEIS PM), 1101 Tautog Circle, Suite 203, Silverdale, WA 98315–1101; *facsimile:* 360–396–0857. In addition, comments may be submitted on-line at *http://www-keyport.kpt.nuwc.navy.mil* during the comment period. All written comments must be postmarked by October 27, 2008 to ensure they become part of the official record. All comments will be addressed in the Final EIS/OEIS.

Dated: September 3, 2008.

T.M. Cruz,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8–21343 Filed 9–11–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Hearings for the Navy Cherry Point Range Complex Draft Environmental Impact Statement/ Overseas Environmental Impact Statement

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 (42 United States Code [U.S.C.] 4321); the Council of Environmental Quality (CEQ) Regulations for implementing the procedural provisions of NEPA (Title 40 Code of Federal Regulations [CFR] Parts 1500–1508); Department of the Navy Procedures for Implementing NEPA (32 CFR part 775); Executive Order (EO) 12114, Environmental Effects Abroad of Major Federal Actions; and Department of Defense (DoD) regulations implementing EO 12114 (32 CFR Part 187), the Department of the Navy (Navy) has prepared and filed with the U.S. Environmental Protection Agency a Draft Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) on September 2, 2008. The National Marine Fisheries Service (NMFS) is a Cooperating Agency for the EIS/OEIS. This notice announces the dates and locations of the public hearings for this Draft EIS/OEIS, and provides supplementary information about the environmental planning effort.

The EIS/OEIS evaluates the potential environmental impacts over a 10-year planning horizon associated with Navy Atlantic Fleet and Marine Corps training; research, development, testing, and evaluation (RDT&E) activities; and associated range capabilities enhancements (including infrastructure improvements) within the existing Navy Cherry Point (Navy CHPT) Range Complex. The Navy CHPT Range Complex encompasses 18,617 square nautical miles (nm^2) of offshore surface and subsurface operating area (OPAREA); 12,529 nm^2 of deep ocean area greater than 100 fathoms (600 feet), and 18,966 nm^2 of overlying Special Use Airspace (SUA) off the coast of North Carolina. The geographic scope of the EIS/OEIS, referred to as the Navy Cherry Point Study Area, includes the OPAREA and SUA, plus the 3 NM strip of coastal water from mean high tide line extending seaward to the western OPAREA boundary. A Notice of Intent for this Draft EIS/OEIS was published in the **Federal Register** on April 30, 2007 (Vol. 72, No. 82, pp. 21248–21249).

The Navy will conduct two public hearings to receive oral and written comments on the Draft EIS/OEIS. Federal, state and local agencies and interested individuals are invited to be present or represented at the public hearings. An open house session will precede the scheduled public hearing at each of the locations listed below and will allow individuals to review the information presented in the Navy CHPT Range Complex Draft EIS/OEIS. Navy and Marine Corps representatives will be available during the open house sessions to clarify information related to the Draft EIS/OEIS.

DATES AND ADDRESSES: All meetings will start with an open house session from 5 p.m. to 7 p.m. A formal presentation and public comment period will be held from 7 p.m. to 9 p.m. Public hearings will be held on the following dates and at the following locations: October 14, 2008 at the North Carolina Maritime Museum, 315 Front St., Beaufort, NC and October 15, 2008 at the Best Western Coastline Inn & Convention Center, 503 Nutt St., Wilmington, NC.

FOR FURTHER INFORMATION CONTACT: Naval Facilities Engineering Command, Atlantic, Attention, EV22SA (Navy CHPT EIS/OEIS PM), 6506 Hampton Boulevard, Norfolk, Virginia 23508–1278; *facsimile:* 757–322–4894 or *http://www.navycherrypointrangecomplexeis.com/.*

SUPPLEMENTARY INFORMATION: The Navy has identified the need to support and conduct current, emerging and future training and RDT&E operations in the Navy CHPT Range Complex. The proposed action does not indicate major changes to Navy CHPT Range Complex facilities, operations, training, or RDT&E capacities over the 10-year planning period. Rather, the proposed action would result in relatively small-scale but critical enhancements to the Navy CHPT Range Complex that are necessary if the Navy and Marine Corps are to maintain a state of military readiness commensurate with their national defense mission.

The EIS/OEIS addresses the training strategies described in the Fleet Readiness Training Plan (FRTP) that implements the Fleet Response Plan (FRP), which ensures continuous availability of agile, flexible, trained, and ready surge-capable (rapid response) forces. The recommended range enhancements, and current and future training and testing operations, which have the potential to impact the environment are the primary focus of the EIS/OEIS.

The purpose for the proposed action is to:

- Achieve and maintain Fleet readiness using the Navy CHPT Range Complex to support and conduct current, emerging, and future training and RDT&E operations;
- Expand warfare missions supported by the Navy CHPT Range Complex; and
- Upgrade and modernize existing range capabilities to enhance and sustain Navy and Marine Corps training and RDT&E.

The need for the proposed action is to provide range capabilities for training and equipping combat-capable naval forces ready to deploy worldwide. In this regard, the Navy CHPT Range Complex furthers the Navy's execution of its Congressionally mandated roles and responsibilities under title 10 U.S.C. 5062. To implement this Congressional mandate, the Navy needs to:

- Maintain current levels of military readiness by training in the Navy CHPT Range Complex;
- Accommodate future increases in operational training tempo in the Navy CHPT Range Complex and support the rapid deployment of naval units or strike groups;
- Achieve and sustain readiness of ships and squadrons consistent with the FRP so the Navy and Marine Corps can quickly surge significant combat power in the event of a national crisis or contingency operation;
- Support the acquisition and implementation into the Fleet of advanced military technology. The Navy CHPT Range Complex must adequately support the testing and training needed for new aircraft and weapons systems; and
- Maintain the long-term viability of the Navy CHPT Range Complex while protecting human health and the environment, and enhancing its quality, communication capability and safety.

Support to current, emerging and future training and RDT&E operations, including implementation of range enhancements, entails the actions evaluated in the EIS/OEIS.

These potentially include:

- Increase use of contractor-operated aircraft that simulate enemy aircraft during training (Commercial Air Services Support for Fleet Opposition Forces and Electronic Warfare Threat Training);
- Increase anti-piracy and maritime interdiction training (Anti-terrorism Surface Strike Group Training);
- Support MH–60R/S helicopter warfare mission areas;
- Designate a littoral mine warfare training area for deploying temporary mineshapes in support of Strike Group mine warfare training during major exercises; and,
- Upgrade the Mid-Atlantic Electronic Warfare Range (MAEWR).

The proposed action is to support and conduct current and emerging training and RDT&E in the Navy CHPT Range Complex. To achieve this, the Navy proposes to:

- Maintain baseline training and testing operations at current levels, plus sufficient additional operations to support a surge capability in compliance with FRP.

• Provide flexibility to respond to real-world situations with increased training operations, and to accommodate mission expansion, emerging force structure changes (including those resulting from the introduction of new aircraft and weapons systems), and new range capabilities.

• Eliminate high explosive bombing exercises at sea, and implement enhanced mine warfare training capability within the range complex.

Three alternatives were evaluated in the Navy CHPT Range Complex EIS/OEIS:

No Action Alternative: Maintain training and RDT&E operations at current levels to include surge consistent with the FRTP;

Alternative 1: All operations in the No Action Alternative, plus a 10% increase in most training and testing operations, plus changes in type and quantity of operations and tactical employment of forces to accommodate expanded mission areas, force structure changes and new range capabilities. Specifically:

• Train tailored naval units to conduct rapid response anti-piracy, anti-terrorism and maritime interdiction operations (Maritime Security Surge Surface Strike Group);

• Conduct surface-to-air missile training;

• Conduct MH–60R/S helicopter training;

• Conduct training with new Organic Mine Countermeasures systems;

• Increase use of contractor-operated aircraft to support fleet training (Commercial Air Services); and

• Upgrade electronic warfare anti-ship and anti-aircraft threat emitters (Mid-Atlantic Electronic Warfare Range).

Alternative 2 (Preferred Alternative): All operations in Alternative 1 plus:

• Eliminate bombs at-sea with high explosive warheads.

• Designate mine warfare training areas, some of which can accommodate temporary deployment of training mineshapes, in support of Strike Group mine warfare training events during major exercises.

The Assistant Secretary of the Navy (Installations & Environment) will decide which alternative analyzed in the EIS/OEIS provides the optimum level and mix of training and testing operations and range capabilities enhancements in the Navy CHPT Range Complex that satisfies the purpose and need while considering all reasonably foreseeable environmental impacts.

Three alternatives were considered but eliminated from further consideration. These alternatives are:

1. Alternative Range Complex Locations—No single range complex on the East Coast can accommodate the entire spectrum of Navy and Marine Corps training and testing. To maintain a high level of combat readiness for naval forces at best value to the U.S. taxpayer, the Navy and Marine Corps homeported their forces in multiple concentration areas rather than a single area, in part to ensure the surrounding training and testing areas could support their specific needs. The result is a system of range complexes, each optimized to support the limited set of warfare areas that predominate in that locale. The Navy CHPT Range Complex possesses a number of historical and natural features that make it an indispensable component of the Navy's East Coast system of ranges. Other locations do not provide reasonable alternatives for required training purposes/activities described above, and as a result, alternative training locations were eliminated from further consideration.

2. Conduct Simulated Training Only—Under this alternative, only simulated training would be conducted using computer models and classroom training. While the Navy currently makes extensive use of computer simulation and classroom instruction as effective training tools, they cannot exclusively replace live training. Simulation cannot replicate the environment of live coordinated training and major exercises, where multiple ships, submarines and aircraft, and hundreds or thousands of men and women are participating in training activities in a coordinated fashion to accomplish a common military objective. Because of the need to train as we fight, this alternative would fail to meet the purpose and need of the proposed action and therefore, is not evaluated further in the EIS/OEIS.

3. Practice Ammunition Use—An alternative that would rely entirely on inert, practice ammunition use within the Navy CHPT Range Complex would not achieve the necessary levels of proficiency in firing weapons in a high stress and realistic environment. Inert, practice ammunition is used throughout the Navy CHPT Range Complex, and provides opportunity to implement a successful, integrated training program while reducing the risk and expense typically associated with live ammunition. However, Navy and Marine Corps personnel need to gain proficiency in handling and employment of ordnance with live warheads in a safe, controlled training environment before entering the inherently unsafe environment of live combat. Consequently, this alternative fails to meet the purpose and need of the proposed action and was not carried forward for analysis.

Nineteen resources and issues were described and analyzed in the EIS/OEIS. These include but are not limited to water resources, air quality, marine communities, marine mammals, sea turtles, fish and essential fish habitat, seabirds and migratory birds, cultural resources, regional economy, and public health and safety. The Navy used subject matter experts, public and agency scoping comments, previous environmental analyses, previous agency consultations, laws, regulations, Executive Orders and resource-specific information in a screening process to identify aspects of the proposed action that could act as stressors to resources and issues evaluated in the EIS/OEIS.

The stressors considered for analysis of environmental consequences include, but are not limited to, vessel movements (disturbance and collisions), aircraft overflights (disturbance and strikes), non-explosive practice munitions, and underwater detonations and high explosive ordnance.

In accordance with 50 CFR 401.12, the Navy submitted a Biological Evaluation to assess the potential effects from the proposed action on marine resources and anadromous fish protected by the NMFS under the Endangered Species Act (ESA). In accordance with the Marine Mammal Protection Act MMPA (16 U.S.C. 1371[a][5]), the Navy submitted a request for Letter of Authorization to the NMFS for the incidental taking of marine mammals by the proposed action which was acknowledged by NMFS in a Notice of Receipt published in the **Federal Register** (Vol. 73, No. 131, pp 38991–38993) on July 08, 2008.

The Navy submitted a Consultation Package in accordance with legal requirements set forth under regulations implementing Section 7 of the ESA (50 CFR 402; 16 U.S.C 1536 (c)) for listed species under jurisdiction of the U.S. Fish and Wildlife Service. The analysis of environmental stressors indicated that implementation of the No Action Alternative, Alternative 1, or Alternative 2 would not result in unavoidable significant adverse effects to resources analyzed. The analysis of environmental stressors and alternatives indicated no significant impact to resources in U.S. territorial waters; likewise, no significant harm in non-territorial waters is expected.

The Navy CHPT Draft EIS/OEIS was distributed to Federal, State, and local agencies, elected officials, and other interested individuals and organizations

on September 12, 2008. The public comment period will end on October 27, 2008. Copies of the Navy CHPT Draft EIS/OEIS are available for public review at the following libraries: Hatteras Library, 57690 NC Highway 12, Hatteras, NC; New Hanover County Library, 201 Chestnut Street, Wilmington, NC; Webb Memorial Library Center, 812 Evans Street, Morehead City, NC; Onslow County Library, 58 Doris Avenue East, Jacksonville, NC; Kill Devil Hills Branch Library, 400 S. Mustian St., Kill Devil Hills, NC; Havelock-Craven County Public Library, 301 Cunningham Boulevard, Havelock, NC. The Navy CHPT Draft EIS/OEIS is also available for electronic public viewing at: *http://www.navycherrypointrangecomplexeis.com/.*

A paper copy of the Executive Summary or a single CD with the Navy CHPT Draft EIS/OEIS will be made available upon written request by contacting Naval Facilities Engineering Command, Atlantic Division; *Attention:* Code EV22SA (Navy CHPT EIS/OEIS PM); 6506 Hampton Blvd.; Norfolk, VA 23508–1278. *Facsimile:* 757–322–4894. Federal, State, and local agencies and interested parties are invited to be present or represented at the public hearing. Written comments can also be submitted during the open house sessions preceding the public hearings.

Oral statements will be heard and transcribed by a stenographer; however, to ensure the accuracy of the record, all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on the Draft EIS/OEIS and will be responded to in the Final EIS/OEIS. Equal weight will be given to both oral and written statements. In the interest of available time, and to ensure all who wish to give an oral statement have the opportunity to do so, each speaker's comments will be limited to three (3) minutes. If a long statement is to be presented, it should be summarized at the public hearing with the full text submitted either in writing at the hearing, or mailed or faxed to Naval Facilities Engineering Command, Atlantic Division; Attention: Code EV22SA (Navy CHPT EIS/OEIS PM); 6506 Hampton Blvd.; Norfolk, VA 23508–1278. *Facsimile:* 757–322–4894. In addition, comments may be submitted on-line at *http://www.navycherrypointrangecomplexeis.com/* during the comment period. All written comments must be postmarked by October 27, 2008 to ensure they become part of the official record. All comments will be addressed in the Final EIS/OEIS.

Dated: September 3, 2008.

T. M. Cruz,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8–21342 Filed 9–11–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Hearings for the Undersea Warfare Training Range Draft Overseas Environmental Impact Statement/Environmental Impact Statement

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and regulations implemented by the Council on Environmental Quality (40 CFR parts 1500–1508), and Executive Order (EO) 12114, Environmental Effects Abroad of Major Federal Actions, the Department of the Navy (Navy) has prepared and filed with the U.S. Environmental Protection Agency a Draft Overseas Environmental Impact Statement/Environmental Impact Statement (OEIS/EIS) on September 12, 2008. The National Marine Fisheries Service (NMFS) is a Cooperating Agency for the OEIS/EIS.

The Draft OEIS/EIS evaluates the potential environmental impacts of the construction and operation of an Undersea Warfare Training Range (USWTR) associated with Navy Atlantic Fleet training activities. The construction of the proposed USWTR would entail the instrumentation of a 500-square nautical mile (NM^2) area of the sea floor with undersea cables and sensor nodes, connected to the shore via a single trunk cable.

The western edge of the range would be located approximately 50 NM off the coast of Jacksonville, FL. The USWTR would allow ships, submarines, and aircraft to perform anti-submarine warfare (ASW) training in littoral, or near shore, waters. A Notice of Intent (NOI) for the OEIS/EIS was published in the **Federal Register** on May 13, 1996 (**Federal Register**, Volume 61, No. 93, pp 22028). A Revised NOI for this Draft OEIS/EIS and Notice of Request for Public Scoping Comments were published in the **Federal Register** on September 21, 2007 (**Federal Register**, Volume 72, No. 183, pp 54015–54016).

The Navy will conduct four public hearings to receive oral and written comments on the Draft OEIS/EIS. Federal agencies, state agencies, local agencies, and interested individuals are invited to be present or represented at the public hearings. This notice announces the dates and locations of the public hearings for this Draft OEIS/EIS.

An open house session will precede the scheduled public hearing at each of the locations listed below and will allow individuals to review the information presented in the USWTR Draft OEIS/EIS. Navy representatives will be available during the open house sessions to clarify information related to the Draft OEIS/EIS.

Dates and Addresses: Public hearings will be held on the following dates and times at the following locations:

1. September 29, 2008, at the Chincoteague Center (open house poster session from 4 p.m. to 7 p.m. and formal hearing from 7 p.m. to 9 p.m.), 6155 Community Drive, Chincoteague, VA;

2. October 1, 2008 at the Crystal Coast Civic Center (open house poster session from 6 p.m. to 8 p.m. and formal hearing from 8 p.m. to 10 p.m.), 3505 Arendell Street, Morehead City, NC;

3. October 6, 2008 at the Sheraton North Charleston—Convention Center (open house poster session from 5 p.m. to 7 p.m. and formal hearing from 7 p.m. to 9 p.m.), 4770 Goer Drive, North Charleston, SC;

4. October 7, 2008 at the University of North Florida—University Center (open house poster session from 5 p.m. to 7 p.m. and formal hearing from 7 p.m. to 9 p.m.), 12000 Alumni Drive, Jacksonville, FL.

FOR FURTHER INFORMATION CONTACT: Naval Facilities Engineering Command, Atlantic, Attention: EV22LL (USWTR OEIS/EIS Program Manager (PM)), 6506 Hampton Boulevard, Norfolk, Virginia 23508–1278; facsimile: 804–200–5568 or *http://projects.earthtech.com/uswtr/.*

SUPPLEMENTARY INFORMATION: The purpose for the proposed action is to enable the U.S. Navy to train effectively in a shallow water environment (120 to 900 feet in depth) at a suitable location for Atlantic Fleet ASW capable units.

The need for the proposed action is to provide range capabilities for training and equipping combat-capable naval forces ready to deploy worldwide. In this regard, the USWTR furthers the Navy's execution of its Congressionally-mandated roles and responsibilities under Title 10 U.S.C 5062. Training on the USWTR would ensure this Congressional mandate is implemented by allowing the Navy to: effectively equip its forces for deployment to littoral areas worldwide, such as the Arabian Sea; use active sonar to assist in the detection of extremely quiet

modern diesel submarines; and train with the actual sensors and weapons systems used in combat to mimic realistic wartime conditions.

The Draft OEIS/EIS evaluates the potential impacts of five alternatives for USWTR including the No Action Alternative. The alternatives were evaluated in the Draft OEIS/EIS to ensure they met the purpose and need, giving due consideration to the following: physiographic features (water depth, range area length/width ratio, shallow/deep water depth ratio, and range orientation to the shoreline), adequacy of support infrastructure (shore landing site for trunk cable and helicopter training and recovery support), climatological criteria (visibility, wind speeds, and wave height), proximity to homeports/air stations (helicopter, submarine, and surface ship homeports), range installation and use (commercial fishing, ocean currents, and bottom type), and non-critical support infrastructure (air space control, shore landing site, and proximity to docking facility for range support craft).

These alternatives include: The No Action Alternative, under which no USWTR would be installed off the east coast of the U.S., although ASW training, including active sonar activities, would continue across Navy operating areas (OPAREAs) and adjacent areas; Site A (Preferred Alternative) which would be located offshore of northeastern Florida in the Jacksonville OPAREA; Site B, located offshore of Charleston, South Carolina in the Charleston OPAREA; Site C, located offshore of southeastern North Carolina, within the Cherry Point OPAREA; and Site D, located offshore of the northeastern coast of Virginia in the VACAPES OPAREA. Two alternative sites, Gulf of Mexico and Gulf of Maine, were eliminated from further consideration because of distance and climatology.

The Draft OEIS/EIS analyzed potential impacts on multiple resources including, but not limited to: The marine environment; biological resources, including threatened and endangered species; and socioeconomic resources. No significant adverse impacts were identified for any resource area for any of the alternatives that cannot be mitigated, with the exception of exposure of marine mammals to underwater sound.

The Navy has applied to NMFS under the Marine Mammal Protection Act for a Letter of Authorization and governing regulations to authorize incidental takes of marine mammals that may result from operation of the proposed USWTR. The Navy is consulting with NMFS under section 7 of the Endangered Species Act on the potential for effects on sea turtles from installation and operation of the proposed range.

The USWTR Draft OEIS/EIS was distributed to Federal, State, and local agencies, elected officials, and other interested individuals and organizations on September 12, 2008. The public comment period will end on October 27, 2008. Copies of the USWTR Draft OEIS/EIS are available for public review at the following libraries: Chincoteague Island Library, 4077 Main Street, Chincoteague, VA; Eastern Shore Public Library, 23610 Front Street, Accomac, VA; Virginia Beach Central Library, 4100 Virginia Beach Boulevard, Virginia Beach, VA; Worcester County Library, Ocean City Branch, 200 14th Street, Ocean City, MD; Wicomico County Free Library, 122 South Division Street, Salisbury, MD; Carteret County Public Library, 210 Turner Street, Beaufort, NC; Onslow County Public Library, 58 Doris Avenue East, Jacksonville, NC; Charleston County Library, 68 Calhoun Street, Charleston, SC; and Jacksonville Public Library, Regency Square Branch, 9900 Regency Boulevard, Jacksonville, FL.

The USWTR Draft OEIS/EIS is also available for electronic public viewing at *http://projects.earthtech.com/uswtr/.* A paper copy of the Executive Summary or a single CD with the USWTR Draft OEIS/EIS will be made available upon written request by contacting Naval Facilities Engineering Command, Atlantic Division; Attention: Code EV22LL (USWTR OEIS/EIS PM); 6506 Hampton Blvd; Norfolk, VA 23508–1278. Facsimile: 804–200–5568. Federal, State, and local agencies and interested parties are invited to be present or represented at the public hearing. Written comments can also be submitted during the open house sessions preceding the public hearings.

Oral statements will be heard and transcribed by a stenographer; however, to ensure the accuracy of the record, all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on the Draft OEIS/EIS and will be responded to in the Final OEIS/EIS. Equal weight will be given to both oral and written statements. In the interest of available time, and to ensure all who wish to give an oral statement have the opportunity to do so, each speaker's comments will be limited to three (3) minutes. If a long statement is to be presented, it should be summarized at the public hearing with the full text submitted either in writing at the hearing, or mailed or faxed to Naval Facilities Engineering Command, Atlantic Division; Attention: Code EV22LL (USWTR OEIS/EIS PM); 6506 Hampton Blvd; Norfolk, VA 23508–1278. Facsimile: 804–200–5568.

In addition, comments may be submitted on-line at *http://projects.earthtech.com/uswtr/* during the comment period. All written comments must be postmarked by October 27, 2008 to ensure they become part of the official record. All comments will be addressed in the Final OEIS/EIS.

Dated: September 5, 2008.

T. M. Cruz,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8–21344 Filed 9–11–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: The Department of Education (Department) gives notice that on December 5, 2007, an arbitration panel rendered a decision in the matter of *Hawaii Department of Human Services, Vocational Rehabilitation and Services for the Blind Division* v. *United States Department of Defense, Department of the Navy (Case No. R-S/06–4).* This panel was convened by the Department under 20 U.S.C. 107d-1(b), after the Department received a complaint filed by the petitioner, the Hawaii Department of Human Services, Vocational Rehabilitation and Services for the Blind Division.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the full text of the arbitration panel decision from Suzette E. Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., room 5022, Potomac Center Plaza, Washington, DC 20202–2800. *Telephone:* (202) 245–7374. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: Under section 6(c) of the Randolph-Sheppard

Act (the act), 20 U.S.C. 107d–2(c), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

The Hawaii Department of Human Services, Vocational Rehabilitation and Services for the Blind Division, the State Licensing Agency (SLA) alleged violations by the United States Department of Defense, Department of the Navy (Navy) of the Act, and the implementing regulations in 34 CFR part 395. Specifically, the SLA alleged the Navy improperly denied the SLA's request to establish a Randolph-Sheppard vending facility at three parcels of real property located at the Pearl Harbor Naval Base. The Navy owned the parcels but leased them to private entities as described in this notice.

In 1999, Congress gave the Navy authority to lease or convey real and personal property in Hawaii that was not needed for Navy operations. On June 30, 2003, the Navy entered into a lease with Fluor Hawaii, LLC, which was terminated in April 2007, covering an area of property at Pearl Harbor immediately adjacent to the USS Arizona Memorial Visitor Center that is known as Halawa Landing. The lease granted exclusive use and possession of the property for a term of 65 years and provided that the property be used solely for a support facility for visitor attractions.

In November 2004, the lessee entered into an agreement with the Pearl Harbor Visitor Center (PHVC) providing for the provision of visitors services at Halawa Landing including but not limited to food, beverage, bag storage, and visitor information. Between late 2004 and early 2007, PHVC operated several food concessions and other visitor services in a large white tent constructed on a portion of the Halawa Landing property adjacent to the primary parking lot used by visitors. A blind vendor operated a food stand at the entrance to that complex pursuant to a concession granted by the National Park Service.

In June 2003, the Navy entered into a lease with a private party for Ford Island, which covered certain Pearl Harbor property on which old and underutilized airplane hangars stood. In 2006, the lessee subleased a portion of the area to the Pacific Aviation Museum (PAM) at Pearl Harbor. The PAM included a cafe, which sold a variety of food and beverages.

On July 7, 1986, the Navy leased certain property near Halawa Landing for the sole purpose of establishing a museum. Inside the museum, known as the USS Bowfin Museum, was a hot dog cart where, in addition to hot dogs, sandwiches, snacks, beverages, and ice cream, some nonfood items were sold.

The SLA alleged that the three parcels of real property at the Pearl Harbor Naval base leased by Navy to a private entity were in violation of the Act that authorizes blind persons to operate vending facilities on any Federal property. Navy responded that the Act did not apply to leased property. After several informal attempts to resolve this dispute, the SLA filed for Federal arbitration in February 2006. A hearing on this matter was held on July 25, 2007.

The issues heard by the arbitration panel were: whether the act applies to real property owned by Navy if leased to a private entity and whether an arbitration panel convened under the Act can award monetary damages.

Arbitration Panel Decision

After reviewing all of the records and hearing testimony of witnesses, the panel ruled for the Navy. While finding the Act ambiguous with regard to whether the priority provisions of the Act at 20 U.S.C. 107(b) applies to Federally owned property that has been leased to a private entity, the panel concluded, based on legislative history as well as the text of the Act and its implementing regulations, that the priority applies only on property ''controlled, maintained, or operated by Federal agencies.''

Specifically, the panel majority found that Congress had authorized the Secretary of the Navy to sell or lease any property in excess of the needs of the Navy. The Navy entered into lease agreements granting exclusive use and possession of the leased properties. With respect to the USS Bowfin Museum, the arbitration panel determined that, because no cafe or cafeteria was planned for the museum, the SLA's claims regarding the museum were moot. With respect to the Halawa Landing and PAM properties, the majority concluded that the priority did not apply because the Navy did not control the leased properties.

Furthermore, the panel concluded that the satisfactory site provisions of the Act did not apply because no Federal employees used the properties and there was not any Federal office space located there. Based upon the foregoing, the panel ruled that the Act's priority did not apply to these properties leased by the Navy.

Lastly, although stating that the concession area in the white tent at Halawa Landing apparently damaged the blind vendor financially, the panel concluded that the Act does not prohibit competition except in instances where vending machines are in direct competition with a blind vendor's facility, which did not occur here. In addition, the panel concluded that the SLA would not be entitled to damages even if the Navy violated the Act because the Act does not authorize the panel to make damages awards. One panel member concurred with the majority opinion and one panel member dissented.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the Department.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register** , in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Dated: September 8, 2009.

Tracy R. Justesen,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. E8–21142 Filed 9–11–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12569–001]

Public Utility District No. 1 of Okanogan County; Notice of Application Tendered for Filing With the Commission

September 5, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major License.

b. *Project No.:* P–12569–001.

c. *Date filed:* August 22, 2008.

d. *Applicant:* Public Utility District No. 1 of Okanogan County.

e. *Name of Project:* Enloe Hydroelectric Project.

f. *Location:* On the Similkameen River, near the Town of Oroville, Okanogan County, Washington. The project occupies about 35.47 acres of federal lands under the jurisdiction of the U.S. Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* John R. Grubich, General Manager, Public Utility District No. 1 of Okanogan County, P.O. Box 912, Okanogan, Washington 98840, (509) 422–8485.

i. *FERC Contact:*

Dianne Rodman, 888 First Street, NE., Room 6B–02, Washington, DC 20426, (202) 502–6077, *dianne.rodman@ferc.gov.*

Kim A. Nguyen, 888 First Street, NE., Room 63–11, Washington, DC 20426, (202) 502–6105, *kim.nguyen@ferc.gov.*

j. *Cooperating agencies:* We are asking Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. The application is not ready for environmental analysis at this time.

l. Deadline for requesting cooperating agency status is October 21, 2008.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

m. *The Enloe Project would consist of:* (1) An existing 315-foot-long and 54-foot-high concrete gravity arch dam with an integrated 276-foot-long central overflow spillway with 5-foot-high flashboards; (2) an existing 76.6-acre reservoir (narrow channel of the Similkameen River) with a storage capacity of 775 acre-feet at 1049.3 feet mean sea level; (3) an 190-foot-long intake canal on the east abutment of the dam diverting flows into the penstock intake structure; (4) a 35-foot-long by 30-foot-wide penstock intake structure; (5) two above-ground 8.5-foot-diameter steel penstocks carrying flows from the intake to the powerhouse; (6) a powerhouse containing two vertical Kaplan turbine/generator units with a total installed capacity of 9.0 megawatts; (7) a 180-foot-long tailrace channel that would convey flows from the powerhouse to the Similkameen River, downstream of the Similkameen Falls; (8) a new substation adjacent to the powerhouse; (9) a new 100-foot-long, 13.2-kilovolt primary transmission line from the substation connecting to an existing distribution line; (10) new and upgraded access roads, and (11) appurtenant facilities.

The project is estimated to generate an average of 54 gigawatthours annually.

n. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are initiating consultation with the Washington State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

p. Procedural schedule: The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter, if needed	September 2008.
Issue Acceptance letter	January 2009.
Issue Scoping Document 1	February 2009.
Issue Scoping Document 2	May 2009.
Notice that application is ready for environmental analysis	May 2009.
Notice of availability of the draft Environmental Assessment	October 2009.
Notice of availability of the final Environmental Assessment	March 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–21153 Filed 9–11–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

September 9, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP08–591–000

Applicants: Equitrans, L.P.

Description: Equitrans, LP submits Twenty First Revised Sheet 5 et al to FERC Gas Tariff, Original Volume 1, effective 10/1/08.

Filed Date: 08/29/2008

Accession Number: 20080903–0031

Comment Date: 5 p.m. Eastern Time on Friday, September 12, 2008.

Docket Numbers: RP08–602–000

Applicants: Sabine Pipe Line LLC

Description: Sabine Pipe Line LLC submits a revision to original transmittal letter dated 8/27/08, correcting proposed effective date of October 1, 2008 instead of November 1, 2008.

Filed Date: 09/08/2008

Accession Number: 20080908–4000

Comment Date: 5 p.m. Eastern Time on Monday, September 22, 2008.

Docket Numbers: CP03–342–005 CP03–343–003

Applicants: Discovery Gas Transmission LLC and Discovery Producer Services LLC

Description: Discovery Gas Transmission LLC and Discovery Producer Services LLC submit a joint abbreviated application to amend the certificate granted by FERC's order issued 5/6/04.

Filed Date: 08/12/2008

Accession Number: 20080818–0056

Comment Date: 5 p.m. Eastern Time on Friday, September 19, 2008.

Docket Numbers: CP08–30–001

Applicants: Colorado Interstate Gas Company

Description: Colorado Interstate Gas Company petitions to amend order to reflect increased project costs and to revise initial rates.

Filed Date: 09/08/2008

Accession Number: 20080908–5081

Comment Date: 5 p.m. Eastern Time on Friday, September 19, 2008.

Docket Number: CP08–461–000

Applicants: Texas Eastern Transmission, LP

Description: Texas Eastern Transmission, LP submits an application for permission and approval to abandon 50,000 dekatherms per day of firm capacity by lease too Discovery Gas Transmission, LLC.

Filed Date: 08/12/2008

Accession Number: 20080815–0051

Comment Date: 5 p.m. Eastern Time on Friday, September 19, 2008.

Docket Number: CP08–470–000

Applicants: Questar Pipeline Company

Description: Questar Pipeline Company submits an abbreviated application for abandonment authorization.

Filed Date: 09/05/2008

Accession Number: 20080905–5146

Comment Date: 5 p.m. Eastern Time on Friday, September 19, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–21296 Filed 9–11–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings, #1

September 5, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER00–2508–003.

Applicants: Orion Power Midwest, L.P., Reliant Energy Mid-Atlantic Power Holdings.

Description: Reliant Energy Mid-Atlantic Power Holdings, LLC submits a Supplement to the June 30, 2008 Triennial Market Update.

Filed Date: 09/02/2008.

Accession Number: 20080902–5148.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 23, 2008.

Docket Numbers: ER01–1403–006; ER06–1443–002; ER04–366–005; ER01–2968–007; ER01–845–006; ER05–1122–004; ER08–107–001.

Applicants: FirstEnergy Operating Companies, Pennsylvania Power Company, Jersey Central Power & Light Company, FirstEnergy Solutions Corp, FirstEnergy Generation Corporation, FirstEnergy Nuclear Generation Corporation, FirstEnergy Generation Mansfield Unit 1 Corp.

Description: First Energy Service Co submits the revised pivotal supplier and market share screen analyses.

Filed Date: 09/02/2008.

Accession Number: 20080904–0579.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 23, 2008.

Docket Numbers: ER01–596–006; ER01–560–012; ER01–2690–010; ER02–963–010; ER01–2641–012; ER01–558–011; ER02–2509–007; ER05–524–005; ER02–77–010; ER02–553–011; ER00–840–008; ER01–137–006; ER98–1767–013; ER99–2992–008; ER99–3165–008; ER94–389–029; ER02–1942–008; ER00–1780–008; ER01–557–012; ER01–559–012.

Applicants: Alabama Electric Marketing, LLC, Big Sandy Peaker Plant, LLC, California Electric Marketing, LLC, Crete, Energy Venture, LLC, High Desert Power Project, LLC, Holland Energy, LLC, Kiowa Power Partners, LLC, Lincoln Generating Facility, LLC, New Mexico Electric Marketing, LLC, Rolling Hills Generating, L.L.C., Tenaska Alabama Partners, L.P., Tenaska Alabama II Partners, L.P., Tenaska Frontier Partners, Ltd., Tenaska Gateway Partners, Ltd., Tenaska Georgia Partners, L.P., Tenaska Power Services Co, Tenaska Virginia Partners, L.P., Texas Electric Marketing, LLC, University Park Energy, LLC, Wolf Hills Energy, LLC.

Description: Tenaska Energy, Inc *et al.* submit notice of change in status.

Filed Date: 09/02/2008.

Accession Number: 20080904–0506.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 23, 2008.

Docket Numbers: ER04–230–039; ER01–3155–025; ER01–1385–034; EL01–45–033.

Applicants: New York Independent System Operator, Inc.

Description: New York ISO's Fifteenth Quarterly Report on efforts to improve efficient utilization of combined cycle units within the NYISO markets, and progress of certain technologies in its ancillary services markets.

Filed Date: 09/02/2008.

Accession Number: 20080902–5118.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 23, 2008.

Docket Numbers: ER07–496–001; ER00–1372–004.

Applicants: Alcoa Power Marketing, Inc., Alcoa Power Generating, Inc.

Description: Alcoa Power Generating, Inc *et al.* submits their updated market power analysis that supports their continued market based rate authorization.

Filed Date: 09/02/2008.

Accession Number: 20080903–0306.

Comment Date: 5 p.m. Eastern Time on Monday, November 3, 2008.

Docket Numbers: ER07–771–002.

Applicants: E.ON U.S. LLC.

Description: Louisville Gas and Electric Company *et al.* submits their Revised Schedule 2, Reactive Power Supply and Voltage Control under their Open Access Transmission Tariff.

Filed Date: 09/02/2008.

Accession Number: 20080903–0305.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 23, 2008.

Docket Numbers: ER07–1137–002.
Applicants: Lockhart Power Company.
Description: Lockhart Power Company submits its updated market power analysis for continued authority to make sales at market-based rates.
Filed Date: 09/03/2008.
Accession Number: 20080903–0304.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 4, 2008.

Docket Numbers: ER08–54–003.
Applicants: ISO New England Inc.
Description: Cross-Sound Cable Company *et al.* submits Notice of Withdrawal of certain tariff sheets filed on 6/6/08 etc.
Filed Date: 06/17/2008.
Accession Number: 20080617–0258.
Comment Date: 5 p.m. Eastern Time on Friday, September 12, 2008.

Docket Numbers: ER08–928–001.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits revisions to its Open Access Transmission Tariff in compliance with FERC's 7/2/08 filing.
Filed Date: 09/02/2008.
Accession Number: 20080903–0311.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 23, 2008.

Docket Numbers: ER08–1230–002.
Applicants: Severstal Sparrows Point, LLC.
Description: Severstal Sparrows Point LLC submits a supplement to their 7/2/08 Notice of Succession and Motion for Determination of Category 1 Seller Status.
Filed Date: 09/03/2008.
Accession Number: 20080905–0096.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 24, 2008.

Docket Numbers: ER08–1230–003.
Applicants: Severstal Sparrows Point, LLC.
Description: Severstal Sparrows Point, LLC. submits a supplement to its 7/15/08 filing of a notice of succession.
Filed Date: 09/03/2008.
Accession Number: 20080905–0097.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 24, 2008.

Docket Numbers: ER08–1487–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool Inc. submits an unexecuted Revised Service Agreement for Ancillary Services and Distribution Facilities with Westar Energy Inc.
Filed Date: 09/02/2008.
Accession Number: 20080903–0307.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 23, 2008.

Docket Numbers: ER08–1488–000.
Applicants: Xcel Energy Services Inc.
Description: Northern States Power Companies submits notices of cancellation of Legacy Transmission Service Agreements.
Filed Date: 09/02/2008.
Accession Number: 20080903–0308.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 23, 2008.

Docket Numbers: ER08–1492–000.
Applicants: Potomac-Appalachian Highline Transmission, LLC.
Description: Potomac-Appalachian Highline Transmission, LLC. submits for informational purposes the first Annual Update under the PATH formula rate accepted by the Commission in the February 29 Order.
Filed Date: 09/02/2008.
Accession Number: 20080904–0507.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 23, 2008.

Docket Numbers: ER08–1493–000.
Applicants: California Independent System Operator Corporation.
Description: California ISO submits transmission accession informational filing that is intended to provide notice regarding their revised transmission Access Charges effective 3/1/08 through 4/3/08.
Filed Date: 09/03/2008.
Accession Number: 20080904–0505.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 24, 2008.

Docket Numbers: ER08–1494–000.
Applicants: Wisconsin Public Service Corporation.
Description: Wisconsin Public Service Corporation submits the Balancing Area Operations Coordination Agreement between WPSC and Dairyland Power Cooperative.
Filed Date: 09/03/2008.
Accession Number: 20080904–0503.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 24, 2008.

Docket Numbers: ER08–1495–000.
Applicants: American Electric Power Service Corporation.
Description: Indiana Michigan Power Company submits an Interconnection Agreement between American Electric Power Service Corporation and Ameren Service Company as agent for Illinois Power and Central Illinois Public Service Company.
Filed Date: 09/03/2008.
Accession Number: 20080904–0504.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 24, 2008.

Docket Numbers: ER08–1496–000.
Applicants: Maine Public Service Company.
Description: Maine Public Service Company submits a Procurement Services Agreement with Aroostook Wind Energy LLC.
Filed Date: 09/03/2008.
Accession Number: 20080905–0092.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 24, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–21298 Filed 9–11–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

September 8, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP03–36–035.

Applicants: Dauphin Island Gathering Partners.

Description: Dauphin Island Gathering Partners submits Thirty-Ninth Revised Sheet 9 to FERC Gas Tariff, First Revised Volume 1, to be effective 9/5/08.

Filed Date: 09/05/2008.

Accession Number: 20080908–0106.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 17, 2008.

Docket Numbers: RP08–603–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Company, LP submits Third Revised Sheet 3703 et al to FERC Gas Tariff, Sixth Revised Volume 1.

Filed Date: 09/03/2008.

Accession Number: 20080904–0487.

Comment Date: 5 p.m. Eastern Time on Monday, September 15, 2008.

Docket Numbers: RP08–604–000.

Applicants: MIGC LLC.

Description: MIGC LLC submits First Revised Sheet No. 4 to FERC Gas Tariff, Second Revised Volume 1, to be effective 10/1/08.

Filed Date: 09/03/2008.

Accession Number: 20080904–0536.

Comment Date: 5 p.m. Eastern Time on Monday, September 15, 2008.

Docket Numbers: RP08–605–000.

Applicants: Texas Eastern Transmission LP.

Description: Texas Eastern Transmission, LP submits its report of recalculated Operational Segment Capacity Entitlements.

Filed Date: 09/02/2008.

Accession Number: 20080904–0537.

Comment Date: 5 p.m. Eastern Time on Monday, September 15, 2008.

Docket Numbers: RP08–606–000.

Applicants: SG Resources Mississippi, L.L.C.

Description: Petition of SG Resources Mississippi, L.L.C. for Waivers of Certain Internet Posting Requirements Relating to Pricing of Storage Services or for Institution of a Rulemaking Proceeding.

Filed Date: 09/03/2008.

Accession Number: 20080903–5107.

Comment Date: 5 p.m. Eastern Time on Monday, September 15, 2008.

Docket Numbers: RP08–608–000.

Applicants: Port Barre Investments, L.L.C. (d/b/a Bobcat Gas Storage.

Description: Port Barre Investment, L.L.C. (d/b/a Bobcat Gas Storage) submits Original Sheet 1 through 162 to FERC Gas Tariff, Original Volume 1 proposed to be effective 10/15/08.

Filed Date: 09/03/2008.

Accession Number: 20080908–0105.

Comment Date: 5 p.m. Eastern Time on Monday, September 15, 2008.

Docket Numbers: RP08–609–000.

Applicants: Panther Interstate Pipeline Energy, LLC.

Description: Panther Interstate Pipeline Energy, LLC submits Sixth Revised Sheet 4 to FERC Gas Tariff, Original Volume 1, to be effective 10/5/08.

Filed Date: 09/05/2008.

Accession Number: 20080908–0107.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 17, 2008.

Docket Numbers: RP08–610–000.

Applicants: Steuben Gas Storage Company.

Description: Steuben Gas Storage Company submits its Second Revised Title Page et al to FERC Gas Tariff, Original Volume 1.

Filed Date: 09/05/2008.

Accession Number: 20080908–0183.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 17, 2008.

Docket Numbers: RP08–611–000.

Applicants: TransColorado Gas Transmission Company L.

Description: TransColorado Gas Transmission Co, LLC submits Second Revised Sheet 20 and First revised Sheet 21A to FERC Gas Tariff, Second Revised Volume 1.

Filed Date: 09/05/2008.

Accession Number: 20080908–0186.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 17, 2008.

Docket Numbers: RP08–612–000.

Applicants: Trunkline LNG Company, LLC.

Description: Trunkline LNG Co, LLC submits Fifth Revised Sheet 2 et al to FERC Gas Tariff, Second Revised Volume 1–A, to be effective 10/1/08.

Filed Date: 09/05/2008.

Accession Number: 20080908–0185.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 17, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

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Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–21299 Filed 9–11–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PH08–34–000]

IIF US Holding 1GP, LLC; Notice of Filing

September 5, 2008.

Take notice that on August 14, 2008, IIF US Holding 1GP, LLC tendered for filing its FERC–65A notification of exemption on behalf of itself and its subsidiary holding companies.

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 September 12, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–21152 Filed 9–11–08; 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

September 5, 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.	File date	Presenter or requester
Prohibited		
1. ER08–1281–000	8–21–08	Elias G. Farrah.
2. ER08–1281–000	8–22–08	Kevin S. Law.
3. Project No. 9300–000	8–29–08	Brian Martin.[1]
Exempt		
1. CP08–31–000	8–25–08	Duane D. Milne, PhD.
2. Project No. 2157–000	8–26–08	Robert G. Whitlam, PhD.
3. Project No. 2210–169	8–27–08	Barclay Andrews.[2]
4. Project No. 12589–001, Project No. 400–051	8–27–08	Larry Thompson.[3]
5. Project No. 2545–091, Project No. 12606–000	9–2–08	Michael F. Gearheard.
6. Project No. 2545–091, Project No. 12606–000	9–2–08	Michael F. Gearheard.[4]

[1] E-mail communication.

[2] One of 79 pieces of correspondence entered into the docket for Project No. 2157–000 between August 27, 2008 and September 3, 2008 (Smith Mountain Lake).

[3] Telephone record.

[4] Different letter from entry No. 6 (addressed to a Mr. Jay Manning with ''cc'' to Ms. Ann F. Miles).

Kimberly D. Bose,

Secretary.

[FR Doc. E8–21151 Filed 9–11–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Salt Lake City Area Integrated Projects and Colorado River Storage Project—Rate Order No. WAPA–137

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Order Concerning Power, Transmission, and Ancillary Services Rates.

SUMMARY: The Acting Deputy Secretary of Energy confirmed and approved Rate Order No. WAPA–137 and Rate Schedule SLIP–F9, placing firm power rates for the Salt Lake City Area Integrated Projects (SLCA/IP) of the Western Area Power Administration (Western) into effect on an interim basis. The Acting Deputy Secretary also confirmed Rate Schedules SP–PTP7, SP–NW3, SP–NFT6, SP–SD3, SP–RS3, SP–EI3, SP–FR3, and SP–SSR3, placing firm and non-firm transmission rates and ancillary services rates on the Colorado River Storage Project (CRSP) transmission system into effect on an interim basis. The provisional rates will be in effect until the Federal Energy Regulatory Commission (FERC) confirms, approves, and places them into effect on a final basis or until they are replaced by other rates. The provisional rates will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of power investment and irrigation aid, within the allowable periods.

DATES: Rate Schedules SLIP–F9, SP–PTP7, SP–NW3, SP–NFT6, SP–SD3, SP–RS3, SP–EI3, SP–FR3, and SP–SSR3 will be placed into effect on an interim basis on the first day of the first full billing period beginning on or after October 1, 2008, and will be in effect until FERC confirms, approves, and places the rate schedules in effect on a final basis through September 30, 2013, or until the rate schedules are superseded.

FOR FURTHER INFORMATION CONTACT: Mr. Bradley S. Warren, CRSP Manager, Colorado River Storage Project Management Center, Western Area Power Administration, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111–1580, (801) 524–5493, e-mail *warren@wapa.gov*, or Ms. Carol A. Loftin, Rates Manager, Colorado River Storage Project Management Center, Western Area Power Administration, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111–1580, (801) 524–6380, e-mail *loftinc@wapa.gov*.

SUPPLEMENTARY INFORMATION: The Deputy Secretary of Energy approved Rate Order No. WAPA–117 on August 1, 2005 (70 Fed. Reg. 47823). This Order included existing Rate Schedule SLIP–F8 for SLCA/IP firm power.[1] The existing firm power Rate Schedule SLIP–F8 is being superseded by Rate Schedule SLIP–F9. Under Rate Schedule SLIP–F8, the energy rate is 10.43 mills/kilowatthour (mills/kWh), and the capacity rate is $4.43/kilowattmonth ($/kWmonth). The composite rate is 25.28 mills/kWh. The provisional firm power rate will be implemented over a 2-year period. In the first year, the provisional firm power rate consists of an energy charge of 11.06 mills/kWh and a capacity charge of $4.70/kWmonth. The second step of the rate will be effective October 1, 2009, and will be capped at the energy charge of 12.29 mills/kWh and a capacity charge of $5.22/kWmonth. The provisional rates for SLCA/IP firm power in Rate Schedule SLIP–F9 will result in an overall composite rate of 26.80 mills/kWh on October 1, 2008, and a composite rate capped at 29.68 mills/kWh on October 1, 2009, through September 30, 2013, or until superseded. This second step rate adjustment will result in an overall increase of about 17.4 percent when compared with the existing SLCA/IP firm power composite rate under Rate Schedule SLIP–F8.

The firm power rate will continue to include a cost recovery mechanism called the Cost Recovery Charge (CRC). The CRC is necessary to adequately maintain a sufficient cash balance in the Upper Colorado River Basin Fund. The CRC is a charge on Sustainable Hydropower (SHP) energy, as determined by financial conditions. Every May, Western will provide customers with information concerning any anticipated CRC for the upcoming fiscal year (FY). If Western determines a CRC is necessary, firm power customers may choose not to take as much firm energy and, in exchange, Western will waive the CRC charge. In addition to the potential for a CRC being implemented every year, Western will consider assessing the CRC upon a 45-day notice to customers, should water releases at Glen Canyon Dam be reduced to less than 8.23 million acre-feet (MAF) in a FY.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator, (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy, and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to FERC. Existing Department of Energy procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Under Delegation Order Nos. 00–037.00 and 00–001.00A, 10 CFR part 903, and 18 CFR part 300, I hereby confirm, approve, and place Rate Order No. WAPA–137, the proposed SLCA/IP firm power rate, CRSP firm and non-firm transmission rates, and ancillary services rates into effect on an interim basis.

The new Rate Schedules SLIP–F9, SP–PTP7, SP–NW3, SP–NFT6, SP–SD3, SP–RS3, SP–EI3, SP–FR3, and SP–SSR3 will be promptly submitted to FERC for confirmation and approval on a final basis.

Dated: September 4, 2008.

Jeffrey F. Kupfer,

Acting Deputy Secretary.

Department of Energy
Deputy Secretary
[Rate Order No. WAPA–137]

In the Matter of: Western Area Power Administration Rate Adjustment for the Salt Lake City Area Integrated Projects and Colorado River Storage Project; Order Confirming, Approving, and Placing the Salt Lake City Area Integrated Projects Firm Power, Colorado River Storage Project Transmission and Ancillary Services Rates Into Effect on an Interim Basis

These rates were established in accordance with section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152). This Act transferred to and vested in the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other acts that specifically apply to the project involved.

By Delegation Order No. 00–037.00, effective December 6, 2001, the

[1] FERC confirmed and approved Rate Order No. WAPA–117 on June 13, 2006, in Docket EF05–5171. See *United States Department of Energy, Western Area Power Administration, Salt Lake City Integrated Projects,* 115 FERC ¶ 62,271 (June 13, 2006).

Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator, (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy, and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Acronyms and Definitions

As used in this Rate Order, the following acronyms and definitions apply:

Administrator: The Administrator of the Western Area Power Administration.
A.F.: Acre-feet.
AFC: Actual firming energy costs (MWh) as used in the PYA formula.
AHP: Available Hydropower.
ALP: Animas La Plata Project.
ATRR: Annual Transmission Revenue Requirement.
Basin Fund: Upper Colorado River Basin Fund.
BFBB: Basin Fund Beginning Balance as used in the CRC formula.
BFTB: Basin Fund Target Balance as used in the CRC formula.
Capacity: The electric capability of a generator, transformer, transmission circuit, or other equipment. It is expressed in kW.
Capacity Rate: The rate which sets forth the charges for capacity. It is expressed in $/kWmonth and applied to each kW of the Contract Rate of Delivery (CROD).
CDP: Customer Displacement Power.
Composite Rate: The rate for firm power which is the total annual revenue requirement for capacity and energy divided by the total annual energy sales. It is expressed in mills/kWh and used for comparison purposes.
CRC: Cost Recovery Charge. A mechanism to assist in recovery of purchased power costs during financial hardship.
CRCE: CRC Energy (GWh) as used in the CRC and PYA formulas.
CRCEP: CRC Energy Percentage of full SHP as used in the CRC and PYA formulas.
CROD: Contract Rate of Delivery. The maximum amount of capacity made available to a preference customer for a period specified under a contract.
CRSP: Colorado River Storage Project.
CRSP Act: An act to authorize the Secretary of the Interior to construct, operate, and maintain the Colorado River Storage Project and Participating Projects, and for other purposes. (Act of April 11, 1956, ch. 203, 70 Stat. 105)
CRSP MC: The CRSP Management Center of Western Area Power Administration.
Customer: An entity with a contract that is receiving firm electric service and transmission from Western's CRSP MC.
DOE: United States Department of Energy.
DOE Order RA 6120.2: An order outlining power marketing administration financial reporting and ratemaking procedures.
DSW: Desert Southwest Region of Western Area Power Administration.
EA: SHP Energy Allocation (GWh) as used in the CRC formula.
EAC: Sum of customers' energy allocations subject to the PYA formula.
Energy: Power produced or delivered over a period of time. It is expressed in kilowatthours.
Energy Rate: The rate which sets forth the charges for energy. It is expressed in mills/kWh and applied to each kWh delivered to each Customer.
EIS: Environmental Impact Statement.
FA: Funds Available as used in the CRC formula.
FA1: Basin Fund Balance Factor as used in the CRC formula.
FA2: Revenue Factor as used in the CRC formula.
FARR: Additional revenue to be recovered as used in the CRC formula.
FE: Forecasted purchased energy as used in the CRC formula.
FERC: Federal Energy Regulatory Commission.
FFC: Forecasted average energy price per MWh as used in the CRC and PYA formulas.
Firm: A type of product and/or service always available at the time requested by the customer.
FRN: **Federal Register** notice.
FX: Forecasted energy purchased expense as used in the CRC formula.
FY: Fiscal year is the period from October 1 to September 30.
GWh: Gigawatthour. The electrical unit of energy that equals 1 billion watt-hours or 1 million kWh.
HE: Forecasted hydro energy as used in the CRC formula.
Integrated Projects: The resources and revenue requirements of the Collbran, Dolores, Rio Grande, and Seedskadee projects blended together with the CRSP to create the SLCA/IP resources and rate.
kW: Kilowatt. The electrical unit of capacity that equals 1,000 watts.
kWh: Kilowatthour. The electrical unit of energy that equals 1,000 watts produced or delivered in 1 hour.
kWmonth: Kilowattmonth. The electrical unit of the monthly amount of capacity.
kWyear: Killowattyear. A unit of electrical capacity demanded for 8,760 hours.
Load: The amount of electric power or energy delivered or required at any specified point(s) on a system.
Load-Ratio Share: Network customer's hourly load (including its designated network load not physically interconnected with Western) coincident with Western's monthly CRSP transmission system peak.
M&I: Municipal and Industrial water.
MAF: Million Acre-Feet. The amount of water required to cover 1 million acres, 1 foot in depth.
Mill: A monetary denomination of the United States that equals one-tenth of a cent or one-thousandth of a dollar.
Mills/kWh: Mills per kilowatthour. A unit of charge for energy.
MW: Megawatt. The electrical unit of capacity that equals 1 million watts or 1,000 kilowatts.
MWh: One million watt-hours of electric energy. A unit of electrical energy which equals 1 megawatt of power used for 1 hour.
NATRR: Net Annual Transmission Revenue Requirement.
NB: Net Balance as used in the CRC formula.
NEPA: National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*).
Non-firm: A type of product and/or service not always available at the time requested by the customer.
NR: The net revenue remaining after paying all annual expenses as used in the CRC formula.
OASIS: Open Access Same-Time Information System.
O&M: Operation and Maintenance.
OM&R: Operation, Maintenance, and Replacements.
PAE: Projected Annual Expenses as used in the CRC formula.
PAR: Projected Annual Revenue without the CRC as used in the CRC formula.
Participating Projects: The projects participating with CRSP according to the CRSP Act of 1956 (43 U.S.C. 620).
PFE: Prior year actual firming energy as used in the PYA formula.
PFX: Prior year actual firming expenses as used in the PYA formula.
Pinch Point: The nearest future year in the PRS where cumulative expenses and required payments equal cumulative revenues.
Power: Capacity and energy.
Preference: The provisions of Reclamation Law which require Western to first make Federal power available to certain entities. For

example, section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) states that preference in the sale of Federal power shall be given to municipalities and other public corporations or agencies and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made under the Rural Electrification Act of 1936.

Price: Average price per MWh for purchased power as used in the CRC formula.

Project Use: Power used to operate the CRSP Participating Projects facilities under Reclamation Law.

Proposed Rate: A rate that has been recommended by Western to the Deputy Secretary of DOE for approval.

Provisional Rate: A rate which has been confirmed, approved, and placed into effect on an interim basis by the Deputy Secretary of DOE.

PRS: Power Repayment Study.

PYA: Prior Year Adjustment as used in the CRC formula.

RA: Revenue Adjustment as used in the PYA formula.

Rate Brochure: A document explaining the rationale and background for the rate proposal contained in this Rate Order, dated January 2008.

Ratesetting PRS: The PRS used for the rate adjustment proposal.

Reclamation: United States Department of the Interior, Bureau of Reclamation.

Reclamation Law: A series of Federal laws, viewed as a whole that create the originating framework under which Western markets power.

Revenue Requirement: The revenue required to recover annual expenses, such as O&M, purchased power, transmission service expenses, interest, deferred expenses, repayment of Federal investments, and other assigned costs.

RMR: Rocky Mountain Region of Western Area Power Administration.

SHP: Sustainable Hydropower as defined in the firm power contracts for SLCA/IP.

SLCA/IP: Salt Lake City Area Integrated Projects. The resources and revenue requirements of the Collbran, Dolores, Rio Grande, and Seedskadee projects blended together with the CRSP to create the SLCA/IP rate.

Supporting Documentation: A compilation of data and documents that support the Rate Brochure and the rate proposal.

TRC: Transmission Revenue Credits.

TSTL: CRSP Transmission System Total Load.

Western: United States Department of Energy, Western Area Power Administration.

WL: Waiver Level as used in the CRC formula.

WLP: Waiver Level Percentage of full SHP as used in the CRC formula.

WPR: Work Program Review. The work plan is a draft estimate of costs that are expected to be included in the Congressional Budget for Western and Reclamation and the basis for budget estimates to be used in the PRS.

WRP: Western Replacement Power as defined in the firm power contracts for SLCA/IP.

Effective Date

The new interim rates will take effect on the first day of the first full billing period beginning on or after October 1, 2008, and will remain in effect until September 30, 2013, pending approval by FERC on a final basis.

Public Notice and Comment

Western followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, in developing these rates. The steps Western took to involve interested parties in the rate process were:

1. The proposed rate adjustment process began May 30, 2007, when Western mailed a notice announcing an informal customer meeting on June 19, 2007, to all SLCA/IP customers and interested parties.

2. On June 19, 2007, August 21, 2007, and October 10, 2007, beginning at 10:30 a.m., informal customer meetings were held to discuss the components and rationale for the rate adjustment, to discuss possible rate designs, and to answer questions.

3. A **Federal Register** notice, published on January 4, 2008 (73 FR 858), announced the proposed rate adjustments for the SLCA/IP, CRSP Transmission, and Ancillary Services Rates. This publication began a public consultation and comment period and announced the public information and public comment forums.

4. On January 11, 2008, Western's CRSP MC mailed all SLCA/IP preference customers, CRSP transmission customers, and interested parties letters along with the Rate Brochure, which contains a copy of the published **Federal Register** notice proposal and a reminder of the February 5, 2008, public information forum.

5. On February 5, 2008, beginning at 1:30 p.m., Western held a public information forum at the Radisson Hotel Salt Lake City Airport, Salt Lake City, Utah. Western provided detailed explanations of the proposed SLCA/IP firm power rate and the CRSP transmission and ancillary service rates. Western provided Rate Brochures, supporting documentation, and informational handouts at this meeting.

6. On March 4, 2008, beginning at 1:30 p.m., Western held a comment forum at the Radisson Hotel Salt Lake City Airport, Salt Lake City, Utah, to give the public an opportunity to comment for the record. Western also notified its customers of its intent to extend the comment and consultation period through May 5, 2008, and to hold additional information and comment forums.

7. On March 12, 2008, Western's CRSP MC mailed a flyer to all SLCA/IP customers, CRSP transmission customers, and interested parties notifying them of a second public information forum and a second comment forum.

8. A **Federal Register** notice, published March 24, 2008 (73 FR 15519), announced the extension of the comment and consultation period for the SLCA/IP firm power, CRSP transmission and ancillary services rates.

9. On March 24, 2008, CRSP MC mailed all SLCA/IP customers, CRSP transmission customers, and interested parties a letter with a copy of the published FRN extending the comment and consultation period for the SLCA/IP firm power, CRSP transmission and ancillary services rates.

10. On April 10, 2008, beginning at 1:30 p.m., Western held its second public information forum at the Bureau of Reclamation, Wallace F. Bennett Federal Building, Room 8102, 125 South State Street, Salt Lake City, Utah.

11. On April 10, 2008, beginning at 2:35 p.m., Western held its second comment forum at the Bureau of Reclamation, Wallace F. Bennett Federal Building, Room 8102, 125 South State Street, Salt Lake City, Utah.

12. Western received 17 comment letters during the consultation and comment period, which ended May 5, 2008. All formally submitted comments have been considered in preparing this Rate Order.

Comments

Written comments were received from the following organizations:

Arizona Tribal Energy Association, Arizona (2),
Farmington Electric Utility System, New Mexico,
Colorado River Energy Distributors Association, Arizona (3),
Grand Canyon Trust, Arizona,
Inter Tribal Council of Arizona, Inc., Arizona,
Irrigation & Electrical Districts Association of Arizona, Arizona,
Living Rivers, Utah (2),

Murray City Corporation, Utah (2),
Navajo Tribal Utility Authority, Arizona,
Salt River Pima-Maricopa Indian Community, Arizona,
Utah Associated Municipal Power Systems, Utah,
Yavapai-Apache Nation, Arizona.

Representatives of the following organizations made oral comments:

Arizona Tribal Energy Association, Arizona, Colorado River Energy Distributors Association, Arizona,
Navajo Tribal Utility Authority, Arizona,
Utah Associated Municipal Power Systems, Utah.

Project Description

The SLCA/IP consists of the CRSP, Rio Grande, and Collbran projects. The CRSP includes two participating projects that have power facilities: the Dolores and Seedskadee projects. Western integrated the Rio Grande and Collbran projects with CRSP for marketing and ratemaking purposes on October 1, 1987. The goals of integration were to increase marketable resources, simplify contract and rate development and project administration by creating one rate and to ensure repayment of the Projects' costs. All Integrated Projects maintain their individual identities for financial accounting and repayment purposes, but their revenue requirements are integrated into the SLCA/IP PRS for ratemaking.

Power Repayment Study—Firm Power Rate

Western prepares a PRS each FY to determine if revenues will be sufficient to repay, within the required time, all costs assigned to the SLCA/IP. Repayment criteria are based on policies (including DOE Order RA 6120.2) and authorizing law.

Provisional rates for SLCA/IP firm power result in an overall composite rate increase of approximately 17.4 percent, when compared to the existing SLCA/IP firm power rates in Rate Schedule SLIP–F8. The current composite rate under Rate Schedule SLIP–F8 is 25.28 mills/kWh. The provisional rates for SLCA/IP firm power in Rate Schedule SLIP–F9 will be implemented over a 2-year period resulting in a composite rate of 26.80 mills/kWh on October 1, 2008, and a composite rate capped at 29.68 mills/kWh on October 1, 2009. In the first year, the provisional firm power rate consists of an energy charge of 11.06 mills/kWh and a capacity charge of $4.70/kWmonth. The second step of the rate will be effective October 1, 2009 through September 30, 2013, or until superseded. The energy charge will not exceed 12.29 mills/kWh and the capacity charge will not exceed $5.22/kWmonth. The actual rates for the second step will be determined using 2008 actual data, updated estimates for purchased power and transmission, as well as other revised estimates that could affect the rate. Western will provide customers an opportunity to comment on the second step during a meeting scheduled for June 2009. The following table compares the current and proposed firm power rates.

COMPARISON OF CURRENT AND PROPOSED FIRM POWER RATES

	Current rate October 1, 2005–September 30, 2010	Proposed rate October 1, 2008 (1st step)	Percent increase for 1st step	Proposed rate[1] October 1, 2009–September 30, 2013 (2nd step)	Total percent increase
Rate Schedule	SLIP–F8	SLIP–F9		SLIP–F9	
Energy (mills/kWh)	10.43	11.06	6.0	12.29	17.8
Capacity ($/kWmonth)	4.43	4.70	6.0	5.22	17.9
Composite Rate (mills/kWh)	25.28	26.80	6.0	29.68	17.4

[1] Maximum rate for FY 2010.

Cost Recovery Charge

Western is proposing to continue the CRC calculation and assessment in the proposed rate schedule as it is in the current SLIP–F8 rate schedule and to add an additional triggering mechanism.

The CRC is based on a Basin Fund cash analysis only and is independent of the PRS calculations. In the event that expenses significantly exceed estimates and in order to adequately recover and maintain a sufficient balance in the Basin Fund, Western will calculate and assess a CRC. The CRC is designed to maintain a Basin Fund Target Balance (BFTB) for the following FY and to limit the FY loss to the Basin Fund. The BFTB will be equal to 15 percent of the upcoming FY's total expenses but not less than $20 million. The allowable FY loss is limited to no more than 25 percent of the Basin Fund Beginning Balance (BFBB). For purposes of explaining how the CRC is calculated, please refer to Rate Schedule SLIP–F9.

Trigger for Shortage Criteria

In the event that Reclamation's 24-month study projects that Glen Canyon Dam water releases will drop below 8.23 MAF in a water year (October through September), Western will recalculate the CRC to include those lower estimates of hydropower generation and the estimated costs for any additional purchased power. Western, as in the yearly projection for the CRC, will give the customers a 45-day notice, during which they may request a waiver of the CRC by voluntarily taking less energy than allowed under the customer's Firm Electric Service contract. This recalculation will remain in effect for the remainder of the current FY. In the event that hydropower generation returns to 8.23 MAF or higher during the CRC implementation, a new CRC will be calculated for the next month, and the customers will be notified.

Narrative PYA Discussion

Since the annual determination of the CRC is based upon estimates, an annual prior year adjustment (PYA) will be calculated. The CRC PYA for subsequent years will be determined by comparing the prior year's estimated firming energy cost to the prior year's actual firming energy cost for the energy provided above the Waiver Level. The PYA will result in an increase or decrease to a customer's firm energy costs over the course of the following year. Please see Rate Schedule SLIP-F9 rate schedule for further explanation of the PYA calculation.

CRC Schedule for Customers

Western will provide its customers with information concerning the anticipated CRC for the upcoming FY in May. The established CRC will be in effect for the entire FY. The table below displays the time frame for determining the amount of purchases needed,

developing customer's load schedules, and making purchases.

CRC SCHEDULE

Task	Date[1]
April 24-Month Study (Forecast to Model Projections).	April 1.
CRC Notice to Customers	May 1.
Waiver Request Submitted by Customers.	June 15.
CRC Effective	October 1.

[1] **Note**: This schedule does not apply if the CRC is triggered by the Glen Canyon Dam annual releases dropping below 8.23 MAF.

CRSP Transmission Rates Discussion

The proposed firm and non-firm transmission rates apply to all transmission-only sales. The present CRSP point-to-point, network, and non-firm transmission rates, outlined in Rate Schedules SP–PTP6, SP–NW2, and SP–NFT5 became effective on October 1, 2002. On June 29, 2007, the Deputy Secretary of Energy extended the transmission rates through September 30, 2010. The transmission rates include the cost for scheduling, system control, and dispatch service. Western is proposing that these three rates remain in effect for this new ratesetting period. The cost of transmission service for Western's SLCA/IP long-term electric service will continue to be included in the SLCA/IP firm power rate. Transmission services are outlined in Western's Tariff.

Western is proposing to use the current methodology, which is an annual fixed charge formula, to determine the revenue requirement to be recovered from firm and non-firm transmission service. The annual transmission revenue requirement includes O&M expenses, administrative and general expenses, interest expense, and depreciation expense. This methodology is updated annually using a test year, which is the most recent historical data available. This revenue requirement is offset by appropriate CRSP transmission system revenues.

The provisional rate for network transmission service is a formula calculation based on the annual transmission revenue requirement. There are no changes to the existing network integration transmission service formula under Rate Schedule SP–NW2.

Firm Point-to-Point

Western is seeking the continued approval of a rate formula for calculation of the firm point-to-point transmission rate to be applied annually. The provisional rate for firm point-to-point transmission service is $2.21/kWmonth for FY 2008.

The firm point-to-point transmission rate is based upon the most recent historical year, using an annual fixed-charge methodology. The annual transmission revenue requirement is reduced by revenue credits such as non-firm transmission, existing contracts at different rates, scheduling and dispatch services, and phase-shifter revenues. The resultant net annual transmission revenue requirement is divided by the capacity reservation needed to meet firm power and transmission-only commitments in kW, including the total network integration loads at system peak, to derive a cost/kWyear. The formula is updated every year by applying the most current historical test year. If needed, a revised rate will become effective every October 1. The rate formula is proposed to be effective October 1, 2008, through September 30, 2013.

The cost/kWyear is calculated using the following formula:

$$(1)\quad ATRR - TRC = NATRR$$

$$(2)\quad \frac{NATRR}{TSTL}$$

Where:

ATRR = Annual Transmission Revenue Requirement. The costs associated with facilities that support the transfer capability of the CRSP transmission system, excluding generation facilities. These costs include investment costs, interest expenses, depreciation expense, administrative and general expenses, and operation and maintenance expense, including transmission purchases. Transmission purchases reflect those costs associated with CRSP contractual rights.

TRC = Transmission Revenue Credits. The revenues generated by the CRSP transmission system not related to the revenues from the sale of long-term firm transmission.

NATRR = Net Annual Transmission Revenue Requirement. The Annual Revenue Requirement minus Transmission Revenue Credits.

TSTL = CRSP Transmission System Total Load. The sum of the total CRSP transmission capacity under long-term reservation including the total network integration loads at system peak.

Non-Firm Point-to-Point Transmission

The proposed rate for non-firm point-to-point CRSP transmission service is a mills/kWh rate, which is based upon the current firm point-to-point rate and may be discounted. This rate will remain in effect concurrently with the firm point-to-point rate and will also be reviewed annually. Transmission availability will be posted on Western's OASIS.

Network Transmission

The proposed rate for network transmission is a calculation based upon the annual revenue requirement then in effect, as determined by the annual fixed charge methodology.

Ancillary Services Discussion

Six ancillary services will continue to be offered by CRSP MC, two of which are required as part of CRSP transmission service. These are (1) Scheduling, system control, and dispatch service and (2) reactive supply, and voltage control service. The remaining four ancillary services are (3) regulation and frequency response service, (4) energy imbalance service, (5) spinning reserve service, and (6) supplemental reserve service. These will be offered either from the balancing authority or from the CRSP MC Merchant Function. Sales of regulation and frequency response, energy imbalance, spinning reserve, and supplemental reserve services from SLCA/IP power resources are limited since Western has allocated the SLCA/IP power resources to preference entities under long-term commitments. Western has made a clarification to its spinning and supplemental reserve ancillary services and has removed its reference to the Western System Power Pool Agreement. Western will continue to use market-based rates to determine its rate for spinning and supplemental reserves under the Rate Schedule SSP–SSR3. The availability and type of ancillary service will be determined based on excess resources available at the time the services are requested, except for the two ancillary services required to be provided in conjunction with the sale of CRSP transmission services.

Since the CRSP transmission system lies in two balancing authorities, operated by Western's RMR and DSW, many of the ancillary services are offered through their respective balancing authorities.

The provisional rates for ancillary services are designed to recover only the costs associated with providing the service(s). The costs for providing scheduling, system control, and dispatch service are included in the appropriate provisional transmission services rates. However, the charges for reactive supply and voltage control service will be in accordance with Western's RMR and DSW applicable rate schedules.

Existing and Provisional Rates

A comparison of the existing and provisional SLCA/IP firm power rates,

CRSP Transmission and Ancillary Services, follows:

COMPARISON OF EXISTING AND PROVISIONAL SALT LAKE CITY AREA INTEGRATED PROJECTS FIRM POWER, COLORADO RIVER STORAGE PROJECT TRANSMISSION AND ANCILLARY SERVICES

	Current rate October 1, 2005–September 30, 2010	Provisional rate October 1, 2008 (1st step)	Percent increase for 1st step	Provisional rate[1] October 1, 2009–September 30, 2013 (2nd step)	Total percent increase
Energy (mills/kWh)	10.43	11.06	6	12.29	17.8.
CRC (if applicable)	varies	varies	varies	varies	varies.
Capacity ($/kWmonth)	4.43	4.70	6	5.22	17.9.
Composite Rate (mills/kWh)	25.28	26.80	6	29.68	17.4.
Firm Transmission Rate	$2.21 (FY 08)	To be determined for FY 09.	To be determined for FY 09.	To be determined for FY 10.	To be determined for FY 10.
Network Transmission (net annual revenue requirement).	$72,613,170 (FY 08).	To be determined for FY 09.	To be determined for FY 09.	To be determined for FY 10.	To be determined for FY 10.
Non-firm Transmission Rate	3.03 mills/kWh, may be discounted (FY 08).	To be determined for FY 09.	To be determined for FY 09.	To be determined for FY 10.	To be determined for FY 10.
Ancillary Services[2]	N/A	N/A	N/A	N/A	N/A.

[1] Maximum rate for FY 2010–2013.
[2] Since all of CRSP transmission facilities are located in two Western balancing authorities, these services are provided through these balancing authorities.

Certification of Rates

Western's Administrator certified that the provisional rates for SLCA/IP firm power, CRSP transmission, and ancillary services are the lowest possible rates consistent with sound business principles. The provisional rates were developed following administrative policies and applicable laws.

SLCA/IP Firm Power Rate Discussion

According to Reclamation Law, Western must establish power rates sufficient to recover O&M expenses, purchased power expenses, interest expenses, and repayment of power investment and irrigation aid.

The existing rate for SLCA/IP firm power under Rate Schedule SLIP–F8 expires September 30, 2010. Effective October 1, 2008, Rate Schedule SLIP–F8 will be superseded by the new rates in Rate Schedule SLIP–F9. The provisional rates for SLCA/IP firm power consist of a capacity rate and an energy rate. The provisional rates for SLCA/IP firm power in Rate Schedule SLIP–F9 will result in a composite rate of 26.80 mills/kWh on October 1, 2008, and a composite rate capped at 29.68 mills/kWh on October 1, 2009. The provisional firm power rate will be implemented over a 2-year period. In the first year, the provisional firm power rate consists of an energy charge of 11.06 mills/kWh and a capacity charge of $4.70/kWmonth. The second step of the rate will be effective October 1, 2009, through September 30, 2013, or until superseded, and will be capped at the energy charge of 12.29 mills/kWh and a capacity charge of $5.22/kWmonth.

Statement of Revenue and Related Expenses

The following table provides a summary of projected revenue and expense data for the SLCA/IP firm power rate through the 5-year provisional rate approval period.

SLCA/IP FIRM POWER—COMPARISON OF 5-YEAR RATE PERIOD (FY 2009–FY 2013) TOTAL REVENUES AND EXPENSES

[$000]

	Existing rate	Proposed rate with cap	Difference
Total revenues	828,785	919,125	90,340
Revenue Distribution			
Expenses:			
O&M	314,501	348,731	34,230
Purchased Power and Transmission	76,489	133,525	57,036
Integrated Projects Requirements	38,820	37,733	(1,087)
Interest	33,165	67,551	34,386
Other	17,789	14,784	(3,005)
Total Expenses	480,764	602,324	121,560
Principal Payments:			
Capitalized Expenses (deficits)	0	0	0
Original Project and Additions	198,009	96,812	(101,197)
Replacements	137,183	206,803	69,620
Irrigation	12,829	13,186	357
Irrigation to Participating Projects	0	0	0
Total Principal Payments	348,021	316,801	(31,220)

SLCA/IP FIRM POWER—COMPARISON OF 5-YEAR RATE PERIOD (FY 2009–FY 2013) TOTAL REVENUES AND EXPENSES—Continued

[$000]

	Existing rate	Proposed rate with cap	Difference
Total Revenue Distribution	828,785	919,125	90,340

Basis for Rate Development

The existing rates for SLCA/IP firm power in Rate Schedule SLIP–F8 no longer provide sufficient revenues to pay all annual costs, including interest expense, and repayment of investment and irrigation aid within the allowable periods. The adjusted rates reflect increases primarily in O&M costs and purchased power and transmission costs. The provisional rates will provide sufficient revenue to pay all annual costs, including interest expense, and to repay power investment and irrigation aid within the allowable periods. To coincide with the start of each FY, the provisional rates for the first step will take effect on October 1, 2008. The provisional rates for the second step will take effect on October 1, 2009, and remain in effect through September 30, 2013.

Provisions for transformer losses adjustment, power factor adjustment, WRP administrative charge, and CDP administrative charge adjustments are part of the provisional rates for SLCA/IP firm power. Western will not modify the provisions and methodologies for these adjustments, which will remain as specified in Rate Schedule SLIP–F9.

Comments

The comments and responses regarding the firm power rate, paraphrased for brevity when not affecting the meaning of the statement(s), are discussed below. Direct quotes from comment letters are used for clarity where necessary. The rate process issues discussed are (1) Firm Power Rate Design, (2) Cost Recovery Charge, (3) Stepped Rate, (4) Basin Fund, (5) Revenue, (6) Western Expenses, (7) Reclamation Expenses and Related Issues, (8) Project Use, (9) Environmental, (10) Hydrology, (11) Transmission and Ancillary Services, and (12) Miscellaneous.

1. Firm Power Rate Design

Comment: Many customers expressed appreciation for the CRSP MC and its willingness to engage in meaningful dialogue, entertain suggestions, and develop alternatives to mitigate significant rate increases.

Response: The CRSP MC is likewise appreciative of the customers' support.

Comment: Pages 6 and 8 of the Rate Brochure reference the ''ratesetting period'' of 17 years as opposed to 20 years. Please explain why a different ratesetting period was used. Are the current rates in effect based upon a 20-year ratesetting period?

Response: The current rate is based on a 20-year ratesetting period. The ratesetting period begins the year the rate took effect (FY 2006) and continues through the pinch point year (FY 2025). The pinch point year is the year of the PRS that has the largest revenue requirements.

The proposed rate will take effect in October 2008, which is the beginning of FY 2009. Since the proposed ratesetting period extends through the same pinch point year, the ratesetting period of the proposed rate is 3 years shorter than that of the current rate.

Comment: Some customers requested copies of all documents and information used to develop the cost basis for the O&M component of the new rate included in the PRS.

Response: Documents and information used to develop the cost basis for the O&M component of the rate proposal were included in the Supporting Documentation Booklet, specifically Tab 10, which had been previously provided to requestors. In addition, the requestors were sent copies of the CRSP MC Work Program Review documents for FY 2006 through FY 2010.

Comment: One commenter asked Western to explain on what basis Western could extend the collection of revenues for apportionment such that rate impacts of those obligations are reduced.

Response: Western adheres specifically to section 5(e) of the CRSP Act, which requires the inclusion of the apportionment of revenues for the States, in the Power Repayment Studies. In addition, DOE Order RA6120.2 provides further clarification of the treatment of repayment periods, specifically in section 12(b)(5), which states ''expected revenues are at least sufficient to recover other costs such as payments to basin funds, Participating Projects or States.''

Comment: One commenter asked Western, ''Please run the PRS and provide the results excluding the funds categorized as 'Available w/Appor' found behind Tab 19 of the CRSP MC Supporting Documentation for Proposed Rates: SLCA/IP Firm Power, CRSP Transmission & Ancillary Services dates January 2008 on the sheet titled 'Colorado River Storage Project, Aid to Participating Projects Irrigation Repayment Obligations and Apportioned Revenue Applied' totaling $642,582,791, which are not tied to authorized projects.''

Response: The proposed rate includes the apportionment revenues required to be collected through FY 2025 (about $368 million). The PRS was rerun without the excess revenue collection for apportionment required by the CRSP Act. Removing these apportionment collections from the repayment period lowered the composite rate by 2.61 mills/kWh.

Comment: Multiple comments were received concerning the inclusion of apportionment revenue collection in the rate, mentioning that $368 million of revenues for apportionment payments would be received by FY 2025. The customers objected to the inclusion of these apportionment revenues in the ratesetting period and recommended that apportionment costs associated with unauthorized, unconstructed projects be programmed into the PRS beyond the pinch point year.

Response: Section 5(e) of the CRSP Act specifies that revenues in the Basin Fund in excess of the amounts needed to defray the cost of operation, maintenance and replacement of the CRSP Project, and to return to the general fund of the Treasury costs allocated to power, municipal water supply, irrigation and salinity control shall be apportioned to the four Upper Colorado Basin States to assist in the repayment of participating projects located within these States. Section 5(e) specifies that such excess ''revenues in the Basin Fund * * * shall be apportioned among the states of the Upper Division in the following percentages: Colorado, 46 per centum;

Utah, 21.5 per centum; Wyoming, 15.5 per centum; and New Mexico, 17 per centum * * *.'' Funds so apportioned must be used only for the repayment of construction costs of participating units located in the states to which such revenues are apportioned.

Comment: A commenter stated that approximately 60 percent of the proposed rate increase appears to be due to apportionment expenses associated with presently non-existent, unauthorized projects.

Response: The comment correctly observes that removing the apportionment obligation from the proposed rate would reduce the proposed rate increase by approximately 60 percent; however, as discussed above, the apportionment obligation is required by law, and as such, the apportionment obligations are already included in the current rate and therefore play no part in the proposed 17 percent increase. The 17 percent increase is due mainly to O&M and purchased power and transmission expense, not because of adding ''new'' Participating Projects costs.

Comment: A comment was received referring to the 1983 agreement between Reclamation and Western that provides guidance for inclusion of Participating Projects into the PRS and believes that Western should follow this guidance.

Response: Western currently abides by the 1983 agreement when including Participating Projects into the PRS by including only those authorized Participating Projects costs in the rate that meet the criteria. The apportionment methodology is then applied toward those projects.

Comment: On what basis, other than historic practice or internal agency opinion, does Western justify inclusions of continued apportionment funds for non-authorized projects in the PRS?

Response: Western adheres to the CRSP Act, specifically section 5, which requires the inclusion of the Participating Projects and the apportionment of revenues in the PRS. In addition, DOE Order RA 6120.2, specifically section 12(b)(5), states, ''expected revenues are at least sufficient to recover other costs such as payments to basin funds, Participating Projects or States.'' Western's obligation to collect apportionment revenues is independent of a state's authorization to spend their apportioned revenues.

Comment: A commenter states it is undisputed that the current rate will collect sufficient revenues to meet all proposed expenditures over the 5-year rate window.

Response: It is true that the current rate will collect sufficient revenues for a 5-year, rate cost evaluation period. However, DOE Order RA 6120.2, section 12, requires revenues to be sufficient to recover annual expenses and repayment through the ratesetting period (through FY 2025 in this ratesetting PRS). According to Reclamation Law, Western must establish power rates sufficient to recover O&M expenses, purchased power expenses, interest expenses, and repayment of power investment and irrigation aid. For the current 17-year ratesetting period, from FY 2009 through FY 2025, the current rate is not sufficient to cover expenses and repayment through this period. The current rate shows deficits in some of these years, including the final year of the study; therefore, the proposed rate adjustment is needed.

Comment: Many comments were received stating that the comment period closing on May 5 was before the end of the formal FY 2010 WPR period of May 21 and wanted to ensure their comments on the FY 2010 WPR were incorporated into the final Rate Order. Some comments suggested Western extend the comment period for this rate process another 30 days, closing on June 4, 2008. Others recommended that the O&M components of this rate proceeding continue to be scrubbed and refined in consultation with the customers prior to finalization of this rate proposal. One commenter went on to state, ''because the formal work program process has not yet concluded prior to the comment deadline * * * we reserve the right to comment on those adjustments prior to finalization of the rate.''

Response: Western's FY 2010 WPR has been finalized; however, Western is committed to continue to work with its customers to try to reduce the budgeted estimates. Western also believes that since the second step is capped, the second step firm power rate can be reduced if the budget estimates are too high. In addition, Western is willing to work with its customers on the FY 2011 budget process which will be used to determine the second step of the rate that will be effective October 1, 2009.

Comments: When will the FY 2010 WPR materials be available, and when will a new PRS be run with updated data? Will this update be provided before the comment forum, or will it be after the comment forum and before the close of the comment period? When will the FY 2010 WPR be finalized?

Response: The WPR process for the FY 2010 budget was held on February 28, 2008. Western has since reviewed those costs to streamline them as much as possible. Western presented these updates to planned O&M costs based on the updated FY 2010 WPR in the second public information forum, which was held on April 10, 2008.

Comment: Another customer encouraged Western to come to some decisions so they can incorporate the forecasted rates into their budget planning process.

Response: Western recognizes that its customers have a budget planning process and the rate adjustment has an effect on its customers' internal processes. Western will be forthcoming with the final rates as soon as the Acting Deputy Secretary places the rates into effect on an interim basis.

2. Cost Recovery Charge

Comment: A comment was made that the early portions of the Rate Brochure indicate the CRC would remain in effect for an entire FY. However, page 17 proposes triggering criteria with a 45-day customer notice.

Response: The firm power rate proposal includes the CRC similar to the existing rate except that it also includes a new, additional, triggering criteria caused by reduced releases from Glen Canyon Dam. This new triggering criteria has the same 45-day customer notice as the Basin Fund balance criteria, but could occur whenever Reclamation's 24-month study indicates Glen Canyon water releases will be reduced to less than 8.23 million acre-feet in a water year. This can happen any time during the year.

Comment: A comment was made regarding the CRC and the example shown on page 14 of the Rate Brochure. The commenter asked if the calculation of annual expenses includes other revenues as an expense offset or are they included in total revenue.

Response: The CRC includes all revenues and expenses. No offsetting of revenue or expenses occurs except for the purpose of calculating the CRC, non-reimbursable environmental expenses are capped at $27 million and indexed for inflation.

Comment: Several customers referenced a CRC ''adjuster'' or credit mechanism whereby when actual purchased power expenses do not meet projections, a credit would be returned to the firm power customers similar to one in place at the Southwestern Power Administration. ''Consider if FX is less than projected, the differential could be spread over all MWh, OR if FA is greater than FARR, the differential could be a credit.''

Response: The CRC already includes a PYA true-up from estimates to actuals. For Western to implement an adjustment similar to Southwestern Power Administration, purchased

power would have to be unbundled from the firm power rate. The current method of socializing all purchased power costs into the SLCA/IP firm electric service rate would not be conducive to using a purchased power adjustment. The CRC includes a PYA true-up from estimates to actuals that is only applicable to those customers actually assessed a CRC because they are the ones who paid the estimated costs of purchasing additional firming energy. The customers who receive a CRC waiver acquire their needed additional energy elsewhere.

3. Stepped Rate

Comment: What internal process(es) would be required in order to change the CRSP MC ratemaking methodology from the pinch point to another methodology? Is Western open to this type of discussion?

Response: Western would be willing to discuss any ratemaking methodology that is within its constraints of law and policy.

Comment: When will the decision be made whether or not Western will implement the stepped rate?

Response: Western has decided to implement the stepped rate with the first step being effective October 1, 2008.

Comment: How would the stepped rate work? Would the rate be one certain percentage, and in the second year the rates would automatically go up? Would the rate be based on the most current PRS in that year?

Response: The first year will be a composite rate of 26.80 mills/kWh, which is a 6 percent increase. The second step will be capped at 29.68 mills/kWh for the composite rate. This would be the maximum amount for the second step. The second step rate will be determined by using FY 2008 actual data, updated estimates for purchased power and transmission, as well as other estimates that could affect the rate. As of now, and for analysis purposes, the total composite rate of 29.68 mills/kWh will be effective October 1, 2009.

Comment: The majority of customers requested that Western consider delaying the proposed SLCA/IP rate adjustment by at least 1 year, stating that because there are a number of uncertainties associated with the proposed rate that may be resolved, thereby eliminating or reducing the need for such a high rate by October 1, 2009. These customers recommend a deferment of the rate until October 1, 2009. In the event Western is unable to defer the rate process, they recommend the implementation of a stepped rate with the first step October 1, 2008, of zero percent and the second step October 1, 2009, not to exceed 18 percent.

Response: Western believes that implementation of a zero-percent increase in the first year is the same as a 1-year deferment of the rate adjustment and is not fiscally responsible. Western is implementing a stepped rate with the first step being 26.80 mills/kWh, which is a 6 percent increase. The second step will not exceed the cap of 29.68 mills/kWh for an overall 17.4 percent increase from the current 25.28 mills/kWh rate. Western believes that this will allow sufficient time to adjust projections based on the current uncertainties and possibly a second step increase that is less than current projections.

The second step will use the FY 2008 Final PRS, the FY 2011 WPR with the same 5-year cost evaluation period (2008–2012), the April 2009, 24-month study from Reclamation, and the most current data available for all other projections.

4. Basin Fund

Comment: Please provide an accounting of revenues and expenses which would explain the Basin Fund climbing from $40 million at the end of FY 2005 to $80 million at the end of the current operating year.

Response: There are many variables that affect the Basin Fund balance increase; however, the main reason for the increase is the almost $116 million collected from power revenues for interest expense and principal payments during the years FY 2006 through FY 2008. The main offset to these collections is non-reimbursable environmental expenses.

In addition, Western has not been able to return funds to Treasury since FY 1999 because of the continued drought. If the Basin Fund continues to be as healthy as it is today, Western is planning to return funds to Treasury this FY to satisfy the return of interest and principal obligations, as required under the CRSP Act.

Comment: Several comments on the projected ''healthy'' ending balance of the Basin Fund suggest the rate process is not necessary. A commenter cited that Western has announced if the ending FY 2008 Basin Fund balance is at the current projected level, Western will probably make a transfer of funds to Treasury. They further stated that ''under these circumstances, holding the rate steady while adjusting for significantly increased hydrology and a change in law is perfectly appropriate and the sound course of action''.

Response: Western reiterates the fact that the balance in the Basin Fund does not determine the need for a rate process. In accordance with DOE Order RA 6120.2, if revenues are not sufficient to cover expenses and repayment obligations as determined by the PRS, the current rate is inadequate and must be adjusted.

Comment: One commenter stated concern that ''the fund itself may evaporate, for which Western has identified no contingencies. Such revenue losses would have tremendous repercussions on funding for those environmental programs to reduce salinity and remove jeopardy for endangered fish.''

Response: Environmental program expenses are non-reimbursable by the power customers and are not included in the PRS for ratemaking purposes. However, the programs are funded out of the Basin Fund, and the costs are credited as funds returned to Treasury for repayment of CRSP obligations.

5. Revenue

Comment: A commenter asked Western to explain the assumed reduction in transmission revenue given the strategic planning process to improve transmission marketing services and if the transmission revenues used in this PRS factor in the new increased transmission rate.

Response: Firm transmission revenue estimates in the PRS are based on firm contracts and rates currently in place. Non-firm transmission revenue estimates are based on a 5-year average of historical data. Western has no way to estimate increased revenues that may occur due to efforts to improve transmission marketing services.

Comment: One commenter requested the first part of 2008 be included in the historical averages.

Response: Western only used actuals from FY 2003 through FY 2007. Western will include FY 2004 through FY 2008, when determining the second step of the firm power rate that will be effective October 1, 2009.

6. Western Expenses

Comment: One commenter questioned, ''Given Western's work on operational consolidation, what are the implications for this rate process, and specifically, what impacts will there be on RMR's work on the new billing system?''

Responses: The increase in power billing is related to RMR information technology (IT) staff that will be supporting the new power billing system. Over the last 3 to 4 years, the Sierra Nevada Region maintained the

old system with minimal enhancements for RMR. As a result, the IT support costs have been very negligible. While the billing system is being developed, the costs will be capitalized. After that time, additional support will be expected the first year or so to get the system running smoothly and to document processes. As for cost allocation of the new power billing system, additional information will be provided next year. RMR and the CRSP MC will work with their customers on the allocation methodology based on the design of the new system and various other factors.

Comment: One customer wanted to know if the ''50–5–5'' expenses drop back to a lower level after FY 2010.

Response: The 50–5–5 initiative (50 ''over-hires,'' over 5 years, at an approximate cost of $5 million) is a recent Western-wide program designed to hire new staff into trainee positions as part of Western's succession planning. The funding for these additional over-hire positions has been placed in Western's FY 2010 budget submissions. The intent of this program is that for each trainee hired, there is a target retirement position. Once these retirements occur, the trainees will fill these positions and staffing levels will become flat again in FY 2013 and beyond.

7. Reclamation Expenses and Related Issues

Comment: A commenter wanted to know if the amounts included in the ratesetting PRS take into account the new legislation with a cap on security costs. In addition, they wanted to know how the future years' projected amounts were derived, and what basis was used for the 94.7 percent share to power. They suggest the rate process should be deferred until the impacts of the security cost cap are known.

Response: At this time, these amounts do not factor in the Consolidated Natural Resources Act of 2008, which includes the limitation of costs to customers of security activities at Reclamation dams. Currently, the future year projected amount is based on amounts through the FY 2010 WPR. Western has not received updated security expenses from Reclamation that reflect impacts of the Consolidated Natural Resources Act of 2008. Western plans to continue to work with Reclamation, and these expenses are expected to be updated and applied in the second step of this rate adjustment. The 94.7 percent share to power is based on an average of allocation factors used for the CRSP units.

Comment: What is the status of the Glen Canyon cost allocation study?

Response: Reclamation has tasked Argonne National Laboratory to study the cost allocation revisions on the Glen Canyon reallocation. Reclamation will be reviewing this work in the near future.

Comment: What is the status of Reclamation's analysis of project purpose cost allocations?

Response: There have been several projects in the region that have had final cost allocation changes to previous interim allocations. For example, the San Juan-Chama Project March 2001 Final Cost Allocation incorporated numerous project purpose changes that occurred since earlier Definite Plan Reports (DPR), such as the increase in the M&I purpose and inclusion of the purpose of the Jicarilla Apache Settlement. Additionally, both the Dolores Project December 2000 and the Dallas Creek Project February 2004 Final Cost Allocations also incorporated some cost allocation changes as a result of slight purpose shifts since their last DPR interim allocations. Also, the Bonneville Unit of the Central Utah Project, still in construction phase, has had recent cost allocation changes to conform to its reconfiguration pursuant to the Reclamation Projects Authorization and Adjustment Act of 1992 (Pub. L. No. 102–575). It is possible that the current October 2004 Interim Cost Allocation of the Bonneville Unit may change again until there is a final cost allocation. Once a final cost allocation has been approved, any cost allocation change succeeding that document may need Congressional approval under Section 302 of the Department of Energy Organization Act (42 U.S.C. 7152).

Comment: A commenter stated and asked the following: ''The April 18, 2008 response to our February 11, 2008, letter includes discussion regarding a footnote contained in Tab 19 of the Supporting Documentation material. It refers to irrigation investment costs. What does footnote 1 (Legal waiver of assistance of irrigation investigation costs still not available) mean? Are these costs related to the ALP study costs? The Congress directed on December 15, 2000, that 'Federal law does not provide a basis for allocating costs related to ALP irrigation components to the M&I water uses or to CRSP power customers. Allocating such costs would require an explicit change to Federal law. As the July 2000 EIS recognizes, in the absence of such a change in the law, those 'sunk costs' that are attributed to project features that are not part of the Department's Preferred Alternative are non-reimbursable.' (S. Report, 106th Congress, 106–513) [sic].''

Response: Public Law 106–554, dated December 21, 2000, states, ''Such repayment shall be consistent with Federal Reclamation Law, including the Colorado River Storage Project Act of 1956 (43 U.S.C. 620 *et seq.*). Such agreement shall take into account the fact that the construction of certain project facilities, including those facilities required to provide irrigation water supplies from the Animas La Plata Project, is not authorized under paragraph (1)(A)(i) and no cost associated with the design or development of such facilities, including costs associated with environmental compliance, shall be allocable to the municipal and industrial users of the facilities authorized under such paragraph.''

Reclamation believes it is clear from Public Law 106–554 that, although Reclamation is no longer authorized to construct irrigation facilities for the ALP, the costs of the design and development of these facilities are not specifically declared non-reimbursable. Public Law 106–554 provides only that those irrigation investigation costs cannot be allocated to the M&I users; otherwise, repayment shall be consistent with Federal Reclamation law, including the CRSP Act.

Comment: An interested party asked, ''What is the basis for the cost of living adjustment included for Reclamation? Is this authorized across all Federal positions, across all Department of Interior positions, throughout Reclamation?''

Response: The program analysts for the Office of Personnel Management determine the cost of living adjustments for most Federal employees. You may wish to visit its Web site at *http://www.opm.gov.* Typically for budget purposes, Western and Reclamation assume a 3 percent increase based on historical averages.

8. Project Use

Comment: One commenter asked what causes the large increase in Project Use in FY 2021.

Response: Increased requirements of the Navajo Indian Irrigation Project.

Comment: One commenter asked where Project Use revenues appear on Table 3 of the Supporting Documentation Booklet.

Response: The Project Use sales are included along with the Energy and Capacity sales on Table 3 of the Supporting Documentation Booklet and, therefore, are included in determining the energy and capacity rates.

9. Environmental

Comment: A commenter asked if Reclamation and Western are seeking appropriations for the Upper Colorado Endangered Fish Recovery Program as obligated in Pub. L. 102–395.

Response: The Recovery Implementation Program Act, Public Law 106–392, Section 3(d)(3)(2), provides that: ''If [Western] and [Reclamation] determine that the funds in the [Basin Fund] will not be sufficient to meet the obligations of section 5(c)(1) of the [CRSP] Act for a 3-year period, [Western] and [Reclamation] shall request appropriations to meet base funding obligations.'' Since the Basin Fund currently has an adequate balance for anticipated non-reimbursable funding requirements, no appropriations are currently being sought for the Upper Colorado Endangered Fish Recovery Program.

Comment: A customer stated that the Recovery Implementation Program (RIP) Base Funding should be at zero after FY 2013 until specific legislation extending the obligation has been passed.

Response: Similar to the way Reclamation has treated security costs in previous WPRs, it shows potential RIP costs in an effort to show any costs that may affect the Basin Fund. Since RIP Base Funding is a non-reimbursable expense, it does not impact the firm power rate.

Comment: A commenter asked if the Aspinall EIS is expected to be done this FY 2008, and if so, shouldn't FY 2009 and FY 2010 expenses be zero?

Response: The current schedule for the Aspinall EIS shows an optimistic anticipated completion date of December 2008 (FY 2009). However, due to various factors and uncertainties in the process, Reclamation recommends leaving the funding in the budget until the EIS has been finalized.

Comment: Two comments were received questioning the determination not to require an Environmental Assessment (EA) or EIS for this rate adjustment.

Response: Western believes it is categorically excluded from an EA or EIS because this process is for a rate adjustment. There are no proposed changes in operations.

Comment: One commenter suggests that the contracts for hydropower anticipate changes in flows from Glen Canyon Dam needed to meet the Grand Canyon Protection Act and the Endangered Species Act so that acquisition of replacement power during these flows is minimized or eliminated.

Response: This rate adjustment does not alter Western's contractual obligations. Western relies upon the hydropower generation estimates projected by the generating agency when planning for replacement power requirements. Western's firm power contracts with its customers provide for the delivery of SHP which is the minimum quantity of firm energy that must be supplied under the contracts. Western's firm power contracts do not expire until September 30, 2024.

10. Hydrology

Comment: A commenter asked what the actual operational expenses have been over the past 5 years for purchased power expenses for operational purposes, and what hydrology was used post-2014.

Response: Western does not specifically track operational purchased power expenses; however, Western has increased this projection for several reasons: (a) Increased energy prices especially during real time on-peak conditions, (b) increased requests for special power plant operations, (c) increased special operations for fish studies, (d) increased unscheduled flow reduction activities, and (e) spinning units for voltage support.

The hydrology study titled, ''Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operation for Lake Powell and Lake Mead'' was used for determining the purchased power estimates for the years FY 2010 through FY 2013. Western used the median level of releases from the dams in these estimates after FY 2014.

Comment: A commenter asked what month's 24-month study is utilized in Table 3 of the Rate Brochure and when an updated study will be available with revised hydrology.

Response: The April 2008, 24-month study will be used for the ratesetting Power Repayment Study (PRS) to project purchased power estimates for FY 2008 and FY 2009. In previous rate analyses, Western has used Reclamation's long-term hydrological study through FY 2060. In this process, for long-term projections, we used the same method as in the last rate process where Western looked at the first 5 future years then dropped purchased power projections down to the operation cost. This effectively makes the difference between Reclamation's long-term study and the most current 24-month study negligible.

Comment: Several commenters asked if the turbine efficiency improvements at Glen Canyon had been factored into the energy calculations in this PRS. They suggested deferring the rate process until the impacts of the enhanced unit efficiencies are evaluated and included in the PRS.

Response: Improvements in turbine efficiency have not been factored into the energy calculation for use in the ratesetting PRS. Western is currently working with Reclamation to determine the energy output of the turbine efficiency improvements at Glen Canyon, Flaming Gorge, and Upper and Lower Molina dams. If the turbine efficiency improvement studies are completed in time for input into the second step of the firm power rate, Western will factor them into the rate.

Comment: A commenter cited independent studies that concluded climate changes could cause Lake Powell to go empty or at least below hydropower generation by 2021. The commenter suggests Western incorporate these studies into its hydrogeneration forecasting.

Response: Western uses forecasts based on hydrological projections that are received from Reclamation. These hydrological studies look at the possible consequences of long term changes to climate. Appendix W, Climate Technical Work Group Report, of the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead's final EIS is a recent example. Moreover, Western's PRSs are performed on a yearly basis with updated hydrological projections.

Any long-term shifts in hydrology that would reduce hydropower generation will be incorporated into future data provided by Reclamation and will be reflected in Western's PRSs at that time. Additionally, depletions to the runoff caused by future development of Upper Basin water allocations are included in Reclamation's hydrological projections and are thus incorporated into Western's rate determination process.

Comment: A commenter suggested the rate process should be deferred until the uncertainties of the improved hydrological conditions, including equalization flows are evaluated and included in the PRS. The commenter questioned if there is a mechanism in place that will compensate for drastically improved hydrology.

Response: If hydrology improves drastically there will be less purchased power costs built into the second step rate, FY 2009 and beyond. In addition, Western will use the updated generation forecasts when it determines the second step.

11. Transmission and Ancillary Services

Comment: A commenter wanted to know if a customer has to be physically

connected to Western's system in order to receive ancillary services such as reactive supply, etc.

Response: There is no predetermined requirement for a customer to receive ancillary services on Western's transmission system. The criteria needed to determine whether or not a customer can receive ancillary services on Western's transmission system include: (a) Physical interconnection, (b) balancing authority location, (c) type of customer, and (d) type of ancillary service required. Each request for ancillary services needs to be evaluated based on its own circumstances. Depending upon the responses to the items listed above, the providing of ancillary services may be mandatory or optional.

Comment: A commenter asked if there were on/off-peak and seasonal non-firm rates on transmission.

Response: CRSP MC does offer firm transmission on a short-term basis, which is usually at a non-firm rate but can be discounted through the OASIS posting process.

Comment: A customer wanted to know if Contract No. 98-SLC–0390 between Western and Utah Associated Municipal Power Systems (UAMPS) had been extended, since it terminates December 2008.

Response: As of this publication date, this contract with UAMPS has not been extended.

12. Miscellaneous

Comment: A commenter wanted to know what the anticipated impacts on merchant function revenues were given the proposed merchant function consolidation.

Response: Western performed a high-level evaluation of the merchant functions and decided it will not be pursuing merchant consolidation as part of this strategic planning process.

Comments: A commenter wanted to know what will be Western's treatment regarding post-2010 SHP allocations.

Response: Western is assuming that SHP allocations will remain constant through FY 2013 and includes firming purchases accordingly to meet its commitments. After FY 2013, Western continues to assume the same SHP allocations through the remainder of the PRS, but reduces the purchased power estimates to include only those needed for operations ($4 million per year).

Comment: A commenter states it is unfortunate that Glen Canyon Dam was authorized.

Response: This comment is outside the scope of this rate process.

Comment: A comment was received stating that since the outcome of the integration of the CRSP cost allocations between RMR and DSW for the operational consolidation is unknown, any rate process should be deferred until October 1, 2009.

Response: Western has chosen to proceed with Operations Consolidation (''Option C'' of the April 24 presentation). Western will work with all customers to ensure that each project will be allocated its appropriate share of costs. Western expects to provide its proposed cost allocation methodologies to interested customers by September 1, 2008, for their review and input.

Availability of Information

Information about this rate adjustment, including PRSs, comments, letters, memorandums, and other supporting material made or kept by Western and used to develop the provisional rates, is available for public review at the Colorado River Storage Project Management Center, Western Area Power Administration, 150 East Social Hall Avenue, Suite 300, Salt Lake City, Utah or at *http://www.wapa.gov/crsp/ratescrsp*.

Ratemaking Procedure Requirements

Environmental Compliance

In compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*); Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and DOE NEPA Regulations (10 CFR part 1021), Western has determined that this action is categorically excluded from preparing an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Submission to the Federal Energy Regulatory Commission

The interim rates herein confirmed, approved, and placed into effect, together with supporting documents, will be submitted to the Commission for confirmation and final approval.

Order

In view of the foregoing and under the authority delegated to me, I confirm and approve on an interim basis, effective October 1, 2008, Rate Schedule SLIP–F9, SP–PTP7, SP–NW3, SP–NFT6, SP–SD3, SP–RS3, SP–EI3, SP–FR3, and SP–SSR3 for the Salt Lake City Area Integrated Projects of the Western Area Power Administration. These rate schedules shall remain in effect on an interim basis, pending FERC's confirmation and approval of them or substitute rates on a final basis through September 30, 2013.

Dated: September 4, 2008.

Jeffrey F. Kupfer,
Acting Deputy Secretary.

Rate Schedule SLIP–F9
(Supersedes Schedule SLIP–F8)

United States Department of Energy
Western Area Power Administration
Salt Lake City Area Integrated Projects;
Arizona, Colorado, Nevada, New Mexico, Utah, Wyoming

Schedule of Rates for Firm Power Service

Effective: The first step of the stepped rate will be effective on the first day of the first full billing period beginning on or after October 1, 2008; the second step will be effective on the first day of the first full billing period on or after October 1, 2009, extending through September 30, 2013, or until superseded by another rate schedule, whichever occurs earlier.

Available: In the area served by the Salt Lake City Area Integrated Projects.

Applicable: To the wholesale power customer for firm power service supplied through one meter at one point of delivery, or as otherwise established by contract.

Character: Alternating current, 60 hertz, three-phase, delivered and metered at the voltages and points established by contract.

Monthly Rate: First step, effective October 1, 2008:

DEMAND CHARGE: $4.70/kilowatt of billing demand.

ENERGY CHARGE: 11.06 mills/kilowatthour of use.

Second step, effective October 1, 2009, and not to exceed the following:

DEMAND CHARGE: $5.22/kilowatt of billing demand.

ENERGY CHARGE: 12.29 mills/kilowatthour of use.

COST RECOVERY CHARGE: This charge will be recalculated annually before May 1, and Western will provide notification to the customers. The charge, if needed, will be placed into effect from October 1 through September 30. If triggered by the Shortage Criteria, the CRC will be re-calculated at that time and may be implemented at any time of the year upon 45-day notice to customers. (See Shortage Criteria Trigger explanation below.) The CRC will be calculated as follows:

CRC CALCULATION

Description	Formula
STEP ONE: Determine the Net Balance available in the Basin Fund	
BFBB: Basin Fund Beginning Balance ($)	Financial forecast.
BFTB: Basin Fund Target Balance ($)	.15 * PAE (not less than $20 million).
PAR: Projected Annual Revenue ($) w/o CRC	Financial forecast.
PAE: Projected Annual Expense ($)	Financial forecast.
NR: Net Revenue ($)	PAR − PAE.
NB: Net Balance ($)	BFBB + NR.
STEP TWO: Determine the Forecasted Energy Purchased Expenses	
EA: SHP Energy Allocation (GWh)	Customer contracts.
HE: Forecasted Hydro Energy (GWh)	Hydrologic & generation forecast.
FE: Forecasted Energy Purchased (GWh)	EA − HE.
FFC: Forecasted Avg Energy Price per MWh ($)	From commercially available price indices.
FX: Forecasted Energy Purchased Expense ($)	FE * FFC.
STEP THREE: Determine the amount of Funds Available for firming energy purchases, and then determine additional revenue to be recovered. The following two formulas will be used to determine FA, the lesser of the two will be used	
FA1: Basin Fund Balance Factor ($)	If (NB > BFBB, FX, FX − (BFTB − NB)).
FA2: Revenue Factor ($)	If (NR > − .25 * BFBB, FX, FX + NR + .25 * BFBB).
FA: Funds Available ($)	Lesser of FA1 or FA2 (not less than $0).
FARR: Additional Revenue to be Recovered ($)	FX − FA.
STEP FOUR: Once the FA for purchases has been determined, the CRC can be calculated, and the WL can be determined	
WL: Waiver Level (GWh)	If (EA < HE, EA, HE + (FE * (FA/FX))), but not less than HE.
WLP: Waiver Level Percentage of Full SHP	WL/EA * 100.
CRCE: CRC Energy (GWh)	EA − WL.
CRCEP: CRC Energy Percentage of Full SHP	CRCE/EA * 100.
CRC: Cost Recovery Charge (mills/kWh)	FARR/(EA * 1,000).

Narrative CRC Example

Step One: Determine the net balance available in the Basin Fund.

BFBB—Western will forecast the Basin Fund Beginning Balance for the next FY.

BFTB—Determine the Basin Fund Target Balance for the next FY. The BFTB will not be less than $20 million. The target is 15 percent of projected annual expenses for the coming FY. BFTB = 0.15*PAE.

PAR—Projected Annual Revenue is Western's estimate of revenue for the next FY.

PAE—Projected Annual Expenses is Western's estimate of expenses for the next FY. The PAE includes all expenses plus non-reimbursable expenses, which are capped at $27 million per year plus an inflation factor. This limitation is for CRC formula calculation purposes only, and is not a cap on actual non-reimbursable expenses.

NR—Net Revenue equals revenues minus expenses. NR = PAR − PAW.

NB—Net Balance is the Basin Fund Beginning Balance plus net revenue. NB = BFBB+NR.

Step Two: Determine the forecasted energy purchased expenses.

EA—The Sustainable Hydropower Energy Allocation. This does not include Project Use customers.

HE—Western's forecast of Hydro Energy available during the next FY developed from Reclamation's April, 24-month, study.

FE—Forecasted Energy purchases are the difference between the sustainable hydropower allocation and the forecasted hydro energy available for the next FY, or the anticipated firming purchases for the next year. FE = EA − HE.

FFC—The forecasted energy price for the next FY per MWh.

FX—Forecasted energy purchased power expenses based on the current year April 24-month study, representing an estimate of the total costs of firming purchases for the coming FY. FX = FE*FFC.

Step Three: Determine the amount of Funds Available (FA) to expend on firming energy purchases, and then determine additional revenue to be recovered (FARR). The following two formulas will be used to determine FA; the lesser of the two will be used. Funds available shall not be less than zero.

A. *Basin Fund Balance Factor (FA1)*

The first factor ensures that the Net Balance will not go below 15 percent of the total expenses for that FY. If the Net Balance is greater than the Basin Fund Target Balance, then use the value for forecasted energy purchased power expenses. If the net balance is less than the Basin Fund Target Balance, then reduce the value of the Forecasted Energy Purchased Power Expenses by the difference between the Basin Fund Target Balance and the Net Balance.

FA1 = if (NB>BFTB, FX,
FX − (BFTB − NB))

If the Net Balance is greater than the Basin Fund Target Balance, then FA1 = FX.

If the Net Balance is less than the Basin Fund Target Balance, then FA1 = FX − (BFTB − NB).

B. *Basin Fund Revenue Factor (FA2)*

The second factor ensures that the net revenue does not result in a loss that exceeds 25 percent of the Basin Fund Beginning Balance. If the Net Revenue is greater than a minus 25 percent of the Basin Fund Beginning Balance, then use the value for forecasted energy purchased power expenses. If the Net Revenue is less than a minus 25 percent of the Basin Fund Beginning Balance, then add the Net Revenue; and 25 percent of the Basin Fund Beginning

Balance to the forecasted energy purchased power expenses.

FA2 = If (NR> − 0.25*BFBB, FX, FX + NR + 0.25*BFBB)

If the Net Revenue does not result in a loss that exceeds 25 percent of the Basin Fund Beginning Balance, then FA2 = FX.

If the Net Revenue results in a loss that exceeds 25 percent of the Basin Fund Beginning Balance, then FA2 + FX + NR + 0.25*BFBB.

FA—Determine the funds available for purchasing firming energy by using the lesser of FA1 and FA2.

FARR—Calculate the additional revenue to be recovered by subtracting the Funds Available from the forecasted energy purchased power expenses.

FARR = FX − FA.

Step Four: Once the funds available for purchases have been determined, the CRC can be calculated and the Waiver Level (WL) can be determined.

A. *Cost Recovery Charge:* The CRC will be a charge to recover the additional revenue required as calculated in Step 3. The CRC will apply to all customers who choose not to request a waiver of the CRC, as discussed below. The CRC equals the additional revenue to be recovered divided by the total energy allocation to all customers for the FY.

CRC = FARR/(EA*1,000)

B. *Waiver Level:*

Western established an energy WL that provides customers the ability to reduce their purchased power expenses by scheduling less energy than their contractual amounts. Therefore, Western will establish an energy WL. For those customers who voluntarily schedule no more energy than their proportionate share of the WL, Western will waive the CRC for that year.

After the Funds Available have been determined, the WL will be set at the sum of the energy that can be provided through hydro generation and purchased with Funds Available. The WL will not be less than the forecasted Hydro Energy.

WL = If (EA<HE, EA, HE + (FA/FX))

If SHP Energy Allocation is less than forecasted Hydro Energy available, then WL = EA.

If SHP Energy Allocation is greater than forecasted Hydro Energy available, then WL = HE + (FE*(FA/FX)).

Prior Year Adjustment: The CRC PYA for subsequent years will be determined by comparing the prior year's estimated firming-energy cost to the prior year's actual firming-energy cost for the energy provided above the WL. The PYA will result in an increase or decrease to a customer's firm energy costs over the course of the following year. The following table is the calculation of a PYA.

PYA CALCULATION

Description	Formula
STEP ONE: Determine actual expenses and purchases for previous year's firming. This data will be obtained from Western's financial statements at the end of the FY	
PFX: Prior Year Actual Firming Expenses ($)	Financial Statements.
PFE: Prior Year Actual Firming Energy (GWh)	Financial Statements.
STEP TWO: Determine the actual firming cost for the CRC portion	
EAC: Sum of the energy allocations of customers subject to the PYA (GWh).	
FFC: Forecasted Firming Energy Cost ($/MWh)	From CRC Calculation.
AFC: Actual Firming Energy Cost ($/MWh)	PFX/PFE.
CRCEP: CRC Energy Percentage	From CRC Calculation.
CRCE: Purchased Energy for the CRC (GWh)	EAC*CRCEP.
STEP THREE: Determine Revenue Adjustment (RA) and PYA	
RA: Revenue Adjustment ($)	(AFC − FFC)*CRCE*1,000.
PYA: Prior Year Adjustment (mills/kWh)	(RA/EAC)/1,000.

Narrative PYA Calculation

Step One: Determine actual expenses and purchases for previous year's firming. This data will be obtained from Western's financial statements at the end of the FY.

PFX—Prior year actual firming expense.

PFE—Prior year actual firming energy.

Step Two: Determine the actual firming cost for the CRC portion.

EAC—Sum of the energy allocations of customers subject to the PYA.

CRCE—The amount of CRC Energy needed.

AFC—The Actual Firming Energy Cost is the PFX divided by the PFE.

AFC = (PFX/PFE)/1,000

Step Three: Determine Revenue Adjustment (RA) and Prior Year Adjustment (PYA).

RA—The Revenue Adjustment is AFC less FFC times CRCE.

RA = (AFC − FFC)*CRCE)*1,000

PYA—The PYA is the RA divided by the EAC for the CRC customers only.

PYA = (RA/EAC)/1,000

The customer's PYA will be based on their prior year's energy multiplied by the resulting mills/kWh to determine the dollar amount that will be assessed. The customers will be charged or credited for this dollar amount equally in the remaining months of the next year's billing cycle. Western will attempt to complete this calculation by December of every year. Therefore, if the PYA is calculated in December, the charge/credit will be spread over the remaining 9 months of the FY (January through September).

Shortage Criteria Trigger: In the event that Reclamation's 24-month study projects that Glen Canyon Dam water releases will drop below 8.23 MAF in a water year (October through September), Western will recalculate the CRC to include those lower estimates of hydropower generation and the estimated costs for the additional purchased power necessary to meet contractual requirements. Western, as in the yearly projection for the CRC, will give the customers a 45-day notice to request a waiver of the CRC, if they do not want to have the CRC charge added to their energy bill. This recalculated CRC will remain in effect for the remainder of the current FY.

In the event that Glen Canyon Dam water releases return to 8.23 MAF or higher level during the trigger

implementation, the CRC will be recalculated and the customer will be notified.

Billing Demand: The billing demand will be the greater of:

1. The highest 30-minute integrated demand measured during the month up to, but not more than, the delivery obligation under the power sales contract, or

2. The Contract Rate of Delivery.

Billing Energy: The billing energy will be the energy measured during the month up to, but not more than, the delivery obligation under the power sales contract.

Adjustment for Waiver: Customers may choose to take a reduced SHP energy allocation as determined in the attached formulas for the CRC, and they will be billed the Energy and Capacity rates listed above, but not the CRC.

Adjustment for Transformer Losses: If delivery is made at transmission voltage but metered on the low-voltage side of the substation, the meter readings will be increased to compensate for transformer losses as provided in the contract.

Adjustment for Power Factor: The customer will be required to maintain a power factor at all points of measurement between 95 percent lagging and 95 percent leading.

Adjustment for Western Replacement Power: Pursuant to the Contractor's Firm Electric Service Contract, as amended, Western will bill the Contractor for its proportionate share of the costs of Western Replacement Power (WRP) within a given time period. Western will include in the Contractor's monthly power bill the cost of the WRP and the incremental administrative costs associated with WRP.

Adjustment for Customer Displacement Power Administrative Charges: Western will include in the Contractor's regular monthly power bill the incremental administrative costs associated with Customer Displacement Power.

Rate Schedule SP–PTP7
(Supersedes Schedule SP–PTP6)

United States Department of Energy
Western Area Power Administration
Colorado River Storage Project; Arizona, Colorado, New Mexico, Utah

Schedule of Rate for Firm Point-to-Point Transmission Service

Effective: The first day of the first full billing period beginning on or after October 1, 2008, and extending through September 30, 2013, or until superseded by another rate schedule, whichever occurs earlier.

Available: In the area served by the Colorado River Storage Project (CRSP) transmission system.

Applicable: To firm point-to-point transmission service customers for which power and energy are supplied to the CRSP transmission system at points of interconnection with other systems and transmitted and delivered, less losses, to points of delivery on the CRSP transmission system established by contract.

Character and Conditions of Service: Transmission service for alternating current, 60 hertz, three-phase, delivered and metered at the voltages and points of delivery established by contract.

Point-to-Point Rate Formula: The firm point-to-point rate is based on a test year using an annual fixed charge methodology. The test year is the most recent historical data available. The annual revenue requirement is reduced by revenue credits. The resultant net annual cost to be recovered is divided by the capacity reservation needed to meet firm power and transmission commitments in kW, including the total network integration loads at system peak, to derive a cost/kWyear. The cost/kWyear is calculated using the following formula:

1. $ATRR - TRC = NATRR$

2. $\frac{NATRR}{TSTL}$

Where:

ATRR = Annual Transmission Revenue Requirement. The costs associated with facilities that support the transfer capability of the CRSP transmission system, excluding generation facilities. These costs include investment costs, interest expense, depreciation expense, administrative and general expenses, and operation and maintenance expenses, including transmission purchases. Transmission purchases reflect those costs associated with CRSP contractual rights.

TRC = Transmission Revenue Credits. The revenues generated by the CRSP transmission system, such as scheduling and dispatch ancillary service revenues and phase shifter revenues, and excluding long-term firm transmission revenues.

NATRR = Net Annual Transmission Revenue Requirement. The Annual Revenue Requirement less Transmission Revenue Credits.

TSTL = CRSP Transmission System Total Load. The sum of the total CRSP transmission capacity under the long-term reservation plus the total network integration loads at system peak.

This formula will be recalculated annually by applying the data from the most current historical test year. If needed, a revised rate will be placed into effect every October 1. Western will provide notification 30 days prior to a revised rate becoming effective. The rate for transmission service includes scheduling, system control, and dispatch. Rate Schedule SP–RS3, or any superseding rate schedule, for reactive supply and voltage control is attached as part of this Rate Schedule and applies to firm point-to-point transmission customers.

Billing: The point-to-point transmission customer will be billed monthly by applying the resulting rate to the maximum amount of capacity reserved, payable whether used or not, except as otherwise provided in existing contracts.

Requirements for Reactive Power: Requirements for reactive power shall be as established by contract; otherwise, there shall be no entitlement to transfer of reactive kilovolt amperes at delivery points except when such transfers may be mutually agreed upon by the Contractor and the contracting officer or their authorized representatives.

Adjustment for Losses: Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer as established by contract. If losses are not fully provided by a transmission customer, charges for financial compensation may apply.

Adjustment for Industry Restructuring: Any transmission-related costs incurred by Western due to electric industry restructuring or other industry changes associated with providing CRSP transmission service will be passed through to each transmission customer, as appropriate.

Rate Schedule SP–NW3
(Supersedes Schedule SP–NW2)

United States Department of Energy
Western Area Power Administration
Colorado River Storage Project; Arizona, Colorado, New Mexico, Utah

Monthly Charge Calculation for Network Integration Transmission Service

Effective: The first day of the first full billing period beginning on or after October 1, 2008, and extending through September 30, 2013, or until superseded by another rate schedule, whichever occurs earlier.

Available: In the area served by the Colorado River Storage Project (CRSP) transmission system.

Applicable: To network transmission service customers for which power and energy are supplied to the CRSP transmission system at points of interconnection with other systems and transmitted and delivered, less losses, to

points of delivery on the CRSP transmission system established by contract.

Character and Conditions of Service: Transmission service for alternating current, 60 hertz, three-phase, delivered and metered at the voltages and points of delivery established by contract.

Monthly Network Formula: The Network integration transmission service charge will be the product of the network customer's load ratio share times one twelfth (1/12) of the total net annual transmission revenue requirement. The same Net Annual Transmission Revenue Requirement is used in determining the rate for network transmission service as for point-to-point transmission service. It is based on a test year using an annual fixed charge methodology. The test year is the most recent year for which historical data is available. The annual revenue requirement is reduced by revenue credits. The formula is as follows:

1. $ATRR - TRC = NATRR$

2. $\frac{NATRR}{12} \times$ Transmission customer's Load-Ratio Share

Where:

ATRR = Annual Transmission Revenue Requirement. The costs associated with facilities that support the transfer capability of the CRSP transmission system, excluding generation facilities. These costs include investment costs, interest expense, depreciation expense, administrative and general expenses, and operation and maintenance expenses, including transmission purchases. Transmission purchases reflect those costs associated with CRSP contractual rights.

TRC = Transmission Revenue Credits. The revenues generated by the CRSP transmission system, such as scheduling and dispatch ancillary services revenues and phase shifter revenues, and excluding long-term firm transmission revenues.

NATRR = Net Annual Transmission Revenue Requirement. The Annual Revenue Requirement less Transmission Revenue Credits.

Load-Ratio Share = Network customer's hourly load (including its designated network load not physically interconnected with Western) coincident with Western's monthly CRSP transmission system peak.

This formula will be recalculated annually by applying the data from the most current historical test year. If needed, a revised rate will be placed into effect every October 1. Western will provide notification 30 days prior to a revised rate becoming effective.

The monthly charge for network transmission service includes scheduling, system control, and dispatch. Rate Schedule SP–RS3, or any superseding rate schedule, will be attached as part of this Rate Schedule and applies to network transmission customers.

Billing: Billing determinants for the formula rate above will be as specified in the service agreement.

Requirements for Reactive Power: Requirements for reactive power shall be as established by contract; otherwise, there shall be no entitlement to transfer of reactive kilovolt amperes at delivery points except when such transfers may be mutually agreed upon by the Contractor and the contracting officer or their authorized representatives.

Adjustment for Losses: Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer as established by contract. If losses are not fully provided by a transmission customer, charges for financial compensation may apply.

Adjustment for Industry Restructuring: Any transmission-related costs incurred by Western due to electric industry restructuring or other industry changes associated with providing CRSP transmission service will be passed through to each transmission customer, as appropriate.

Rate Schedule SP–NFT6
(Supersedes Schedule SP–NFT5)

United States Department of Energy
Western Area Power Administration
Colorado River Storage Project; Arizona, Colorado, New Mexico, Utah

Schedule of Rate for Non-Firm Point-to-Point Transmission Service

Effective: The first day of the first full billing period beginning on or after October 1, 2008, and extending through September 30, 2013, or until superseded by another rate schedule, whichever occurs earlier.

Available: In the area served by the Colorado River Storage Project (CRSP) transmission system.

Applicable: To non-firm point-to-point transmission service customers for which power and energy are supplied to the CRSP transmission system at points of interconnection with other systems and transmitted and delivered, less losses, to points of delivery on the CRSP transmission system as established by contract.

Character and Conditions of Service: Transmission service on an interruptible basis for three-phase alternating current 60 hertz, delivered and metered at the voltages and points of delivery specified in the service contract or in advance by the Western Area Power Administration (Western). Conditions for curtailment shall be determined by Western and in accordance with Western's Tariff.

Rate: The proposed rate for non-firm, point-to-point, CRSP transmission service is based upon the firm point-to-point rate expressed in mills/kWh. This rate may be discounted.

Billing: The rate will be applied to each kWh delivered at the point of delivery, as specified in the service contract.

Adjustments for Reactive Power: None. There shall be no entitlement to transfer of reactive kilovolt-amperes at delivery points, except when such transfers may be mutually agreed upon by the Contractor and the contracting officer or their authorized representatives.

Adjustments for Losses: Power and energy losses incurred in connection with the transmission and delivery of power and energy under this rate schedule shall be supplied by the customer in accordance with the service contract. If losses are not fully provided by a transmission customer, charges for financial compensation may apply.

Adjustment for Industry Restructuring: Any transmission-related costs incurred by Western due to electric industry restructuring or other industry changes associated with providing CRSP transmission service will be passed through to each transmission customer, as appropriate.

Rate Schedule SP–SD3
(Supersedes Schedule SP–SD2)

United States Department of Energy
Western Area Power Administration
Colorado River Storage Project; Arizona, Colorado, New Mexico, Utah

Schedule of Rate for Scheduling, System Control, and Dispatch Ancillary Services

Effective: Beginning on October 1, 2008, and extending through September 30, 2013.

Available: In the area served by the Colorado River Storage Project (CRSP) transmission system.

Applicable: To all CRSP transmission customers receiving this service.

Character of Service: Scheduling, System Control, and Dispatch service is required to schedule the movement of power through, out of, within, or into a balancing authority.

Rate: Included in appropriate transmission rates.

Rate Schedule SP–RS3
(Supersedes Schedule SP–RS2)
United States Department of Energy
Western Area Power Administration
Colorado River Storage Project; Arizona, Colorado, New Mexico, Utah

Schedule of Rate for Reactive Supply and Voltage Control Ancillary Service

Effective: Beginning on October 1, 2008, and extending through September 30, 2013.

Available: In the area served by the Colorado River Storage Project (CRSP) Transmission system.

Applicable: To all CRSP transmission customers receiving this service.

Character of Service: Reactive power is support provided from generation facilities that is necessary to maintain transmission voltages within acceptable limits of the system.

Rate: Provided through WALC balancing authority under Rate Schedule DSW–RS2 or WACM balancing authority under Rate Schedule L–AS2, or as superseded.

Rate Schedule SP–EI3
(Supersedes Schedule SP–EI2)
United States Department of Energy
Western Area Power Administration
Colorado River Storage Project; Arizona, Colorado, New Mexico, Utah

Schedule of Rate for Energy Imbalance Ancillary Service

Effective: Beginning on October 1, 2008, and extending through September 30, 2013.

Available: In the area served by the Colorado River Storage Project (CRSP) transmission system.

Applicable: To all CRSP transmission customers receiving this service.

Character of Service: Provided when a difference occurs between the schedules and the actual delivery of energy to a load located within a balancing authority over a single hour.

Rates: Provided through WALC balancing authority under Rate Schedule DSW–EI2 or WACM balancing authority under Rate Schedule L–AS4, or as superseded, or the customer can make alternative comparable arrangements to satisfy its Energy Imbalance service obligations.

Rate Schedule SP–FR3
(Supersedes Schedule SP–FR2)
United States Department of Energy
Western Area Power Administration
Colorado River Storage Project; Arizona, Colorado, New Mexico, Utah

Schedule of Rate for Regulation and Frequency Response Ancillary Service

Effective: Beginning on October 1, 2008, and extending through September 30, 2013.

Available: In the area served by the Colorado River Storage Project (CRSP) transmission system.

Applicable: To all CRSP transmission customers receiving this service.

Character of Service: Necessary to provide the continuous balancing of resources, generation and interchange, with load and for maintaining schedules interconnection frequency at 60 cycles per second (60 Hz).

Rate: If the CRSP MC has regulation available for sale, the SLCA/IP firm power capacity rate, currently in effect, will be charged. If regulation is unavailable from SLCA/IP resources, the WALC or WACM balancing authorities can provide the service, in accordance with their respective rate schedules.

Rate Schedule SP–SSR3
(Supersedes Schedule SP–SSR2)
United States Department of Energy
Western Area Power Administration
Colorado River Storage Project; Arizona, Colorado, New Mexico, Utah

Schedule of Rates for Spinning and Supplemental Reserve Ancillary Service

Effective: Beginning on October 1, 2008, and extending through September 30, 2013.

Available: In the area served by the Colorado River Storage Project (CRSP) transmission system.

Applicable: To all CRSP transmission customers receiving this service.

Character of Service: Spinning Reserve is defined in Schedule 5 of Western Area Power Administration's Open Access Transmission Tariff.

Supplemental Reserve is defined in Schedule 6 of Western Area Power Administration's Open Access Transmission Tariff.

Rate: If CRSP resources are available, the charge will be determined based on market rates plus administrative costs. If CRSP resources are not available, CRSP will purchase spinning reserves and pass through the costs associated with these purchases, including administrative costs.

[FR Doc. E8–21176 Filed 9–11–08; 8:45 am]
BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8714–3]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Rick Westlund (202) 566–1682, or e-mail at *westlund.rick@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR Number 1669.05; Lead-Based Paint Pre-Renovation Information Dissemination—TSCA Section 406(b); in 40 CFR part 735, subpart E; was approved 08/14/2008; OMB Number 2070–0158; expires 08/31/2011.

Dated: September 8, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–21314 Filed 9–11–08; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2008–0661; FRL–8381–5]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture

(defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from August 4, 2008 through August 15, 2008, consists of the PMNs and TME, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before October 14, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2008–0661, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Hand Delivery*: OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2008–0661. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2008–0661. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. 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 electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from August 4, 2008 through August 15, 2008, consists of the PMNs and TME, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs and TME, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 39 PREMANUFACTURE NOTICES RECEIVED FROM: 08/04/08 TO 08/15/08

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–08–0612	08/04/08	11/01/08	CBI	(G) Ink, coating, adhesive	(G) Polyacrylate oligomer product from base-catalyzed reaction of tetraacrylate, triacrylate, epoxy diacrylate and .beta.-ketoester.
P–08–0613	08/04/08	11/01/08	CBI	(G) Ink, coating, adhesive	(G) Polyacrylate oligomer product from base-catalyzed reaction of tetraacrylate, triacrylate, epoxy diacrylate and .beta.-ketoester.
P–08–0614	08/04/08	11/01/08	CBI	(G) Ink, coating, adhesive	(G) Polyacrylate oligomer product from base-catalyzed reaction of tetraacrylate, triacrylate, epoxy diacrylate and .beta.-ketoester.
P–08–0615	08/04/08	11/01/08	CBI	(G) Ink, coating, adhesive	(G) Polyacrylate oligomer product from base-catalyzed reaction of tetraacrylate, triacrylate, epoxy diacrylate and .beta.-ketoester.
P–08–0616	08/04/08	11/01/08	CBI	(G) Ink, coating, adhesive	(G) Polyacrylate oligomer product from base-catalyzed reaction of tetraacrylate, triacrylate, epoxy diacrylate and .beta.-ketoester.
P–08–0617	08/04/08	11/01/08	CBI	(G) Ink, coating, adhesive	(G) Polyacrylate oligomer product from base-catalyzed reaction of tetraacrylate, triacrylate, epoxy diacrylate and .beta.-ketoester.
P–08–0618	08/04/08	11/01/08	Reichhold, Inc.	(G) Adhesive	(G) Vinyl ester polymer
P–08–0619	08/05/08	11/02/08	Energizer Battery Manufacturing Company, Inc.	(S) Fill dirt	(S) Jarosite
P–08–0620	08/05/08	11/02/08	CBI	(S) Used for fitting support, or to make clamps, valve bodies, small casing	(G) Lauryllactam, polymer with alkanedicarboxylic acid and alkanediiamine
P–08–0621	08/05/08	11/02/08	CBI	(G) Dispersing agent	(G) Acrylate copolymer
P–08–0622	08/05/08	11/02/08	CBI	(G) Lubricant additive	(G) Barium sulfonate
P–08–0625	08/06/08	11/03/08	CBI	(G) Used in coatings and adhesive products	(G) Alkoxylated alkylamine
P–08–0626	08/06/08	11/03/08	CBI	(G) Used in coatings and adhesive products	(G) Alkoxylated alkylamine
P–08–0627	08/06/08	11/03/08	CBI	(G) Used in coatings and adhesive products	(G) Alkoxylated alkylamine
P–08–0628	08/07/08	11/04/08	CBI	(G) Open, non-dispersive (coatings resin)	(G) Polyacrylate resin

I. 39 PREMANUFACTURE NOTICES RECEIVED FROM: 08/04/08 TO 08/15/08—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–08–0629	08/08/08	11/05/08	CBI	(G) Open, non-dispersive use as a low percentage component in a formulated product.	(G) Phenol, 2,4,6-tris[(dimethylamino)methyl]-, reaction products with triethylenetetramine mixture (includes: *N,N′*-bis(2-aminoethyl)-1,2-ethanediamine, tris-(2-aminoethyl)amino), *N,N′*-bis-(2-aminoethyl)piperazine, and *N*-[(2-aminoethyl)2-aminoethyl]piperazine)
P–08–0630	08/11/08	11/08/08	Cytec Industries Inc.	(G) Emulsifier	(G) Poly(oxyalkylenediyl), substituted maleate half-ester, metal salts
P–08–0631	08/08/08	11/05/08	CBI	(G) Component of industrial use coating	(G) Alkenoic acid polymer with (poly)hydroxy substituted alkane, ester with acryloylcarbamic acid
P–08–0632	08/08/08	11/05/08	CBI	(G) Component of industrial use coating	(G) Alkenoic acid polymer with (poly)hydroxy substituted alkane, ester with acryloylcarbamic acid
P–08–0633	08/08/08	11/05/08	CBI	(G) Component of industrial use coating	(G) Alkenoic acid polymer with (poly)hydroxy substituted alkane, ester with acryloylcarbamic acid
P–08–0634	08/08/08	11/05/08	CBI	(G) Component of industrial use coating	(G) Alkenoic acid polymer with (poly)hydroxy substituted alkane, ester with acryloylcarbamic acid
P–08–0635	08/08/08	11/05/08	CBI	(G) Component of industrial use coating	(G) Alkenoic acid polymer with (poly)hydroxy substituted alkane, ester with acryloylcarbamic acid
P–08–0636	08/08/08	11/05/08	CBI	(G) Component of industrial use coating	(G) Alkenoic acid polymer with (poly)hydroxy substituted alkane, ester with acryloylcarbamic acid
P–08–0637	08/12/08	11/09/08	CBI	(G) Open non-dispersive (resin)	(G) Polyether prepolymer
P–08–0638	08/12/08	11/09/08	CBI	(G) Catalyst component	(G) Mixed titanate
P–08–0639	08/12/08	11/09/08	CBI	(G) Catalyst component	(G) Mixed titanate
P–08–0640	08/13/08	11/10/08	Teknor Apex	(S) Plasticizer for flexible pvc	(G) Aroamtic/aliphatic carboxylic acid ester
P–08–0641	08/13/08	11/10/08	CBI	(G) Raw material for electronic parts	(G) [1,1′-biphenyl]-4,4′-diol, 3,3′,5,5′-tetramethyl-, polymer with 2-(chloromethyl) oxirane and carbopolycycle bis [phenol]
P–08–0642	08/13/08	11/10/08	CBI	(G) Additive for textile finishing	(G) Fluorinated acrylic copolymer
P–08–0643	08/13/08	11/10/08	CBI	(G) (Product 1 and 2) dispersive oil and water proofing agent; (Product 2) foaming additive	(G) Fluorinated acrylic copolymer
P–08–0644	08/13/08	11/10/08	CBI	(G) Dipersive oil and water proofing agent; non-dispersive oil and water proofing agent; additive for textile finishing	(G) Fluorinated acrylic copolymer
P–08–0645	08/14/08	11/11/08	CBI	(G) Coating component	(G) Salt of aliphatic and cycloaliphatic polycarboxylic acids
P–08–0646	08/15/08	11/12/08	Esstech, Inc	(S) Adhesive; coating agent	(S) *N*-(2-hydroxy-3-((2-methyl-1-oxo-2-propenyl)oxy)propyl)-*N*-(4-methylphenyl)-glycine, magnesium salt
P–08–0647	08/15/08	11/12/08	Firmenich Inc.	(S) Aroma for use in fragrance mixtures, which in turn are used in perfumes, soaps, cleansers, etc.	(S) Extractives and their physically modified derivatives. jasminum sambac. Oils, jasmine, jasnium sambac
P–08–0648	08/15/08	11/12/08	CBI	(G) Cosmetic use where it acts as a solvent, the hydrogenated fluid acts as a carrier for the other components.	(G) Pentaisobutylene
P–08–0649	08/15/08	11/12/08	CBI	(G) Pigment dispersant	(G) Organic salt of a polyester polyamine
P–08–0650	08/15/08	11/12/08	CBI	(G) Chromatographic separation material	(G) Styrene, methanamine modified polymer
P–08–0651	08/15/08	11/12/08	CBI	(G) Synthetic adsorbent	(G) Halogenated styrene modified polymer
P–08–0652	08/15/08	11/12/08	CBI	(G) Weekly acidic cation exchange resin	(G) Acrylic styrene modified polymer

I. 39 PREMANUFACTURE NOTICES RECEIVED FROM: 08/04/08 TO 08/15/08—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–08–0653	08/15/08	11/12/08	CBI	(G) Weekly acidic cation exchange resin	(G) Acrylonitrile, acrylate, styrene modified polymer

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TME received:

II. 1 TEST MARKETING EXEMPTION NOTICES RECEIVED FROM: 08/04/08 TO 08/15/08

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–08–0019	08/11/08	09/24/08	Cytec Industries Inc.	(G) Emulsifier	(G) Poly(oxyalkylenediyl), substituted maleate half-ester, metal

In Table III of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

III. 20 NOTICES OF COMMENCEMENT FROM: 08/04/08 TO 08/15/08

Case No.	Received Date	Commencement Notice End Date	Chemical
P–04–0590	08/04/08	07/22/08	(G) Amine salted polyurethane
P–07–0026	08/06/08	07/24/08	(G) Alkyl ether trialkyl quaternary ammonium compound
P–07–0174	08/13/08	07/24/08	(S) Oxazole, 2,2′-(1,3-phenylene)bis(4,5-dihydro-
P–07–0405	08/13/08	08/06/08	(G) Substituted quinacridone, aminophthalimidomethyl derivatives
P–07–0492	08/12/08	08/01/08	(G) Maleic anhydride, polymer with *N*-tetradec-1-ene,*N*-hexadec-1-ene and allylmethyl-poly[ethylene glycol, dicocoalkyl-, di[hydrogenated tallow] amide/ ammonium salt
P–07–0503	08/11/08	07/26/08	(G) Siloxanes and silicones, di-alkyl, hydrogen-terminated, polymers with chlorotrialkylsilane-iso-pr alc.-silicic acid sodium salt reaction products, 2-(7-oxabicyclo[4.1.0]alkyl group- and 2-(trialkylsilyl) alkyl group-terminated
P–07–0677	08/07/08	07/15/08	(G) Aspartic acid, *N*-alkyl,*N*′-(isocyanatoalkyl)-,alkyl ester
P–07–0715	08/05/08	07/23/08	(G) Epoxy amine polymer
P–08–0030	08/12/08	07/30/08	(G) 1,1 geminal disubstituted ethylene
P–08–0121	08/01/08	07/10/08	(G) Acryloylisocyanate
P–08–0123	08/12/08	07/13/08	(G) Disubstituted benzenamine
P–08–0148	08/12/08	07/10/08	(G) Substituted phthalocyanine
P–08–0156	08/08/08	07/14/08	(G) Polyalkylester, polymer with .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 3-hydroxy-2-(hydroxymethyl)-2-methylpropanoic acid and alkyldiisocyanate, ammonium salt
P–08–0195	08/05/08	07/28/08	(G) Acrylated aliphatic polyurethane
P–08–0252	08/05/08	07/07/08	(G) Alkanoic acid ester, polymer with substituted alcohol and epoxy resin
P–08–0265	08/01/08	07/08/08	(G) Polymer of isocyanic acid, polymethylene polyphenylene ester, with alkyl polyamine, .alpha.-hydro-.gamma.-hydroxypoly[(oxy(methyl-1,2-ethanediyl)) and methyloxirane
P–08–0288	08/11/08	07/23/08	(G) Polyester polycarbonate polyurethane modified with polymer of acrylic and vinyl esters.
P–08–0301	08/12/08	07/23/08	(G) Polymer of fatty acids, aliphatic diols, aliphatic polyols, and aromatic acids.
P–08–0325	08/12/08	06/25/08	(S) Hexanedioic acid, mixed 4-methyl-2-propylhexyl and 5-methyl-2-propylhexyl and 2-propylheptyl esters
P–08–0388	08/13/08	08/11/08	(G) Substituted mineral acid

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: September 4, 2008.

Darryl S. Ballard,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. E8–21140 Filed 9–11–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8585–6]

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 202–564–7146.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 6, 2008 (73 FR 19833).

Draft EISs

EIS No. 20080250, ERP No. D–FHW–K53013–CA, Orange County Gateway Project, To Provide Grade Separation Alternative along the Burlington Northern Santa Fe Railroad Tracks from west of Bradford Avenue to west of Imperial Highway (State Route 90), Cities of Placentia and Anaheim, Orange County, CA.

Summary: EPA expressed environmental concerns about water quality, air quality, induced traffic, construction and cumulative impacts, and requested additional analysis and/or mitigation strategies for each resource area of concern. Rating EC2.

EIS No. 20080258, ERP No. D–NHT–A86245–00, Corporate Average Fuel Economy (CAFE) Proposed Standards for Model Year 2011–2025 Passenger Cars and Light Trucks, Implementation

Summary: EPA expressed environmental concerns about the methodology used to determine the relative costs and benefits of the alternatives analyzed in the DEIS. Rating EC2.

EIS No. 20080260, ERP No. D–AFS–F65071–WI, Medford Aspen Project, To Implement a Number of Vegetation and Transportation Management Activities, Medford-Park Falls Ranger District, Chequamegon-Nicolet National Forest, Taylor County, WI.

Summary: EPA does not object to the selection of the preferred alternative. Rating LO.

EIS No. 20080263, ERP No. D–COE–K39114–CA, Three Rivers Levee Improvement Authority, proposes construct and maintain the Feather River Levee Repair Project, Segment 2, Issuing 408 Permission and 404 Permit, Yuba County,CA.

Summary: While EPA has no objection to the proposed action, EPA did request clarification of air and water quality issues and mitigation. Rating LO.

EIS No. 20080272, ERP No. DB–COE–K32046–CA, Port of Los Angeles Channel Deepening Project, To Dispose of Approximately 3.0 Million Cubic Yards of Dredge Material Required to Complete the Channel Deepening Project and to Beneficially Reuse the Dredge Material with the Port of Los Angeles, Los Angeles County, CA.

Summary: EPA expressed environmental concerns about air quality, human health, environmental justice, and impacts associated with the ocean disposal and dredged materials. Rating EC2.

EIS No. 20080268, ERP No. DS–FTA–F40434–MN, Central Corridor Project, New Information on the 11 miles Light Rail Transit between downtown Minneapolis and downtown St. Paul, Minnesota, Twin Cities Metropolitan Area, MN.

Summary: EPA continues to have environmental concerns about hazardous waste, and air quality impacts. New impacts to surface water and habitat were identified. Rating EC2.

EIS No. 20080283, ERP No. DS–AFS–F65069–MN, Glacier Project, Updated Information to Develop and Analyze a Fourth Alternative, To Maintain and Promote Native Vegetation, Communities that are Diverse, Productive, Healthy, Implementation, Superior National Forest, Kawishiwi Ranger District, St. Louis and Lake Counties, MN.

Summary: EPA does not object to the proposed action.

Final EISs

EIS No. 20080278, ERP No. F–NPS–L65486–WA, Mountain Lake Fisheries Management Plan for the North Cascades National Service Complex, Implementation, North Cascades National Park, Whatcom, Skagit and Chelan Counties, WA.

Summary: EPA's previous issues have been resolved; therefore, EPA does not object to the proposed action.

EIS No. 20080280, ERP No. F–AFS–J65513–WY, Winter Elk Management Programs, Long-Term Special Use Authorization for Wyoming Game and Fish Commission to use National Forest System Land Within the Bridger-Teton National Forest at Alkali Creek, Dog Creek, Fall Creek, Fish Creek, Muddy Creek, Patrol Cabin, and Upper Green River, Jackson and Sublette, WY.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20080294, ERP No. F–FHW–D40332–VA, U.S. 460 Location Study Project, Transportation Improvements from I–295 in Prince George County to the Interchange of Route 460 and 58 along the Suffolk Bypass, Funding, U.S. Army COE Section 10 and 404 Permits, Prince George, Sussex, Surry, Southampton and Isle of Wight Counties, VA.

Summary: EPA continues to have environmental concerns about aquatic, terrestrial, and environmental justice impacts.

EIS No. 20080298, ERP No. F–BLM–L70014–ID, Cottonwood Resource Management Plan, Implementation, Latah, Clearwater, Nez Perce, Lewis, Idaho and Adams Counties, ID.

Summary: EPA's previous concerns have been resolved; therefore, EPA does not object to the proposed action.

Dated: September 9, 2008.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E8–21302 Filed 9–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8585–5]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly Receipt of Environmental Impact Statements

Filed 09/01/2008 Through 09/05/2008

Pursuant to 40 CFR 1506.9

EIS No. 20080344, Draft EIS, COE, MN, Mississippi River Headwaters Reservoir Operating Plan Evaluation (ROPE), Proposed Revision to the Operating Plan for the Reservoirs, Upper Mississippi River Headwaters,

Bemidji to St. Paul, MN, Comment Period Ends: 11/03/2008, Contact: Steve Clark 651–290–5278.

EIS No. 20080345, Draft EIS, USN, NC, Navy Cherry Point Range Complex, Proposed Action is to Support and Conduct Current and Emerging Training and Research, Development, Testing and Evaluation (RDT&E) Activities, South Atlantic Bight, Cape Hatteras, NC, Comment Period Ends: 10/27/2008, Contact: Arron Slater 757–322–4960.

EIS No. 20080346, Draft EIS, USN, WA, Naval Sea Systems Command (NAVSEA). Naval Undersea Warfare Center (NUWC), Keyport Complex Extension, Propose to Extend the Operational Areas, Three Distinct Range Sites: Keyport Range Site; Dabob Bay Range Complex (DBRC) Site, Quinault Underwater Tracking Range Site, Gray Harbor, Jefferson, Kitsap and Mason Counties, WA, Comment Period Ends: 10/27/2008, Contact: Kimberly Kler 360–396–0927.

EIS No. 20080347, Final EIS, COE, MD, Atlantic Coast of Maryland Shoreline Protection Project, Proposed Dredging of Several New Offshore Shoals to Provide Sand for Borrow Sources from 2010 to 2044, Ocean City, Worcester County, MD, Wait Period Ends: 10/14/2008, Contact: Christopher Spaur 410–962–6134.

EIS No. 20080348, Draft EIS, USN, 00, Undersea Warfare Training Range Project, Installation and Operation, Preferred Site Jacksonville Operating Area, FL and Alternative Sites (within the Charleston, SC; Cherry Point, NC; and VACAPES Operating Areas, VA, Comment Period Ends: 10/27/2008, Contact: Lesky Leonard 757–322–4645

EIS No. 20080349, Draft EIS, AFS, CA, Round Valley Fuels Reduction and Vegetation Management Project, Proposes to Reduce Fuel and Manage Vegetation, Funding, Goosenest Ranger District, Klamath National Forest, Siskiyou County, CA, Comment Period Ends: 10/27/2008, Contact: Leslie Burkhart 530–398–4391.

EIS No. 20080350, Draft EIS, NOA, 00, Programmatic EIS—Fishery Management Plan for Regulating Offshore Marine Aquaculture in the Gulf of Mexico, To Increase the Maximum Sustainable Yield (MSY) and Optimun Yield (OY), Implementation, Comment Period Ends: 10/27/2008, Contact: Roy E. Crabtree 727–824–5701.

EIS No. 20080351, Final EIS, SFW, NV, Coyote Spring Investment Multispecies Conservation Plan, Issuing a 40-year Incidental Take Permit for Five Species, Clark and Lincoln Counties, NV, Wait Period Ends: 10/14/2008, Contact: Mary Grim 916–414–6464

Amended Notices

EIS No. 20080242, Draft EIS, BLM, WV, East Lynn Lake Coal Lease Project, Proposal to Lease Federal Coal that lies Under Nine Tracts of Land for Mining, Wayne County, WV, Comment Period Ends: 11/10/2008, Contact: Chris Carusona 414–297–4463.

Revision of FR Notice Published 06/27/2008: Extending Comment Period from 09/24/2008 to 11/10/2008.

Dated: September 9, 2008.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E8–21301 Filed 9–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8714–2]

Integrated Science Assessment for Sulfur Oxides-Health Criteria

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing the availability of a final document entitled ''Integrated Science Assessment for Sulfur Oxides-Health Criteria'' (EPA/600/R–08/047F) and the supplementary annexes (EPA/600/R–08/047FA). The document was prepared by the National Center for Environmental Assessment (NCEA) within EPA(s Office of Research and Development as part of the review of the primary (health-based) national ambient air quality standards (NAAQS) for sulfur oxides.

DATES: The document will be available on or about September 12, 2008.

ADDRESSES: The ''Integrated Science Assessment for Sulfur Oxides-Health Criteria'' will be available primarily via the Internet on the National Center for Environmental Assessment's home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.* A limited number of CD–ROM or paper copies will be available. Contact Ms. Ellen Lorang by phone (919–541–2771), fax (919–541–5078), or e-mail (*lorang.ellen@epa.gov*) to request either of these, and please provide your name, your mailing address, and the document title, ''Integrated Science Assessment for Sulfur Oxides-Health Criteria'' (EPA/600/R–08/047F), to facilitate processing of your request.

FOR FURTHER INFORMATION CONTACT: For technical information, contact Jee Young Kim, Sc.D., NCEA [telephone: 919–541–4157; facsimile: 919–541–5078; or e-mail: *kim.jee-young@epa.gov*] or Douglas Johns, PhD, NCEA [telephone: 919–541–5596; or e-mail: *johns.doug@epa.gov*].

SUPPLEMENTARY INFORMATION: Section 108(a) of the Clean Air Act directs the Administrator to identify certain pollutants that ''may reasonably be anticipated to endanger public health and welfare'' and to issue air quality criteria for them. These air quality criteria are to ''accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air. * * *'' Under section 109 of the Act, EPA is then to establish national ambient air quality standards (NAAQS) for each pollutant for which EPA has issued criteria. Section 109(d) of the Act requires subsequent periodic review and, if appropriate, revision of existing air quality criteria to reflect advances in scientific knowledge on the effects of the pollutant on public health and welfare. EPA is also to revise the NAAQS, if appropriate, based on the revised air quality criteria.

Sulfur oxides are one of six principal (or ''criteria'') pollutants for which EPA has established NAAQS. Periodically, EPA reviews the scientific basis for these standards by preparing an Integrated Science Assessment (ISA), formerly called an Air Quality Criteria Document (AQCD). The ISA and supplementary annexes, in conjunction with additional technical and policy assessments, provide the scientific basis for EPA decisions on the adequacy of a current NAAQS and the appropriateness of new or revised standards. The Clean Air Scientific Advisory Committee (CASAC), an independent science advisory committee mandated by the Clean Air Act and part of the EPA's Science Advisory Board (SAB), is charged with expert scientific review of EPA's draft ISAs.

On May 16, 2006 (71 FR 28023), EPA formally initiated its current review of the criteria for Sulfur Oxides, requesting the submission of recent scientific information on specified topics. A draft of EPA's ''Integrated Plan for Review of the Primary National Ambient Air Quality Standard for Sulfur Oxides'' was made available in February 2007 for

public comment and was discussed by the CASAC via a publicly accessible teleconference consultation on May 11, 2007 (72 FR 20336). This plan was then finalized and made available to the public in October 2007. A review of the secondary (welfare-based) NAAQS for Sulfur Oxides is being conducted separately, in conjunction with the review of the secondary NAAQS for Oxides of Nitrogen. (*http://www.epa.gov/ttn/naaqs/standards/so2/s_so2_cr_pd.html*). In February 2007 (72 FR 6238), a workshop was held to discuss, with invited scientific experts, initial draft materials prepared in the development of the ISA and supplementary annexes for sulfur oxides. The first external review draft of this ISA was released for public comment and review by the CASAC on September 28, 2007 (72 FR 55207), and was reviewed by CASAC at a public meeting held on December 5–6, 2007 (72 FR 64216). The second draft of this ISA was released for public comment and review by the CASAC in June 2008 (73 FR 31113), and was reviewed by CASAC at a public meeting held on July 30–31, 2008. EPA has considered comments by CASAC and by the public in preparing this final ISA.

Dated: September 2, 2008.

Rebecca Clark,

Acting Director, National Center for Environmental Assessment.

[FR Doc. E8–21317 Filed 9–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0673; FRL–8382–8]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a four–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) to consider and review the Scientific Issues Associated with Worker Reentry Exposure Assessment.

DATES: The meeting will be held on December 2-5, 2008, from approximately 9:00 a.m. to 5:00 p.m, eastern time.

Comments. The Agency encourages that written comments be submitted by November 18, 2008 and requests for oral comments be submitted by November 25, 2008. However, written comments and requests to make oral comments may be submitted until the date of the meeting, but anyone submitting written comments after November 18, 2008 should contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT.** For additional instructions, see Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

Nominations. Nominations of candidates to serve as ad hoc members of the FIFRA SAP for this meeting should be provided on or before September 22, 2008.

Special accommodations. For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at the Environmental Protection Agency, Conference Center, Lobby Level, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA 22202.

Comments. Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2008–0673, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions. Direct your comments to docket ID number EPA–HQ–OPP–2008–0673. If your comments contain any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting your comments. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 docket index available at *http://www.regulations.gov*. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

Nominations, requests to present oral comments, and requests for special accommodations. Submit nominations to serve as ad hoc members of the FIFRA SAP, requests for special seating accommodations, or requests to present oral comments to the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Jim Downing, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564-8432; fax number: (202) 564-

8382; e-mail addresses: *downing.jim@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and the Food Quality Protection Act of 1996 (FQPA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

C. How May I Participate in this Meeting?

You may participate in this meeting by following the instructions in this unit. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–HQ–OPP–2008–0673 in the subject line on the first page of your request.

1. *Written comments*. The Agency encourages that written comments be submitted, using the instructions in **ADDRESSES**, no later than November 18, 2008, to provide FIFRA SAP the time necessary to consider and review the written comments. Written comments are accepted until the date of the meeting, but anyone submitting written comments after November 18, 2008 should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT.** Anyone submitting written comments at the meeting should bring 30 copies for distribution to the FIFRA SAP.

2. *Oral comments*. The Agency encourages that each individual or group wishing to make brief oral comments to FIFRA SAP submit their request to the DFO listed under **FOR FURTHER INFORMATION CONTACT** no later than November 25, 2008, in order to be included on the meeting agenda. Requests to present oral comments will be accepted until the date of the meeting and, to the extent that time permits, the Chair of the FIFRA SAP may permit the presentation of oral comments at the meeting by interested persons who have not previously requested time. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). Oral comments before FIFRA SAP are limited to approximately 5 minutes unless prior arrangements have been made. In addition, each speaker should bring 30 copies of his or her comments and presentation slides for distribution to the FIFRA SAP at the meeting.

3. *Seating at the meeting*. Seating at the meeting will be open and on a first-come basis.

4. *Request for nominations to serve as ad hoc members of the FIFRA SAP for this meeting*. As part of a broader process for developing a pool of candidates for each meeting, the FIFRA SAP staff routinely solicits the stakeholder community for nominations of prospective candidates for service as ad hoc members of the FIFRA SAP. Any interested person or organization may nominate qualified individuals to be considered as prospective candidates for a specific meeting. Individuals nominated for this meeting should have expertise in one or more of the following areas: occupational pesticide exposure and risk assessment, agronomy and agricultural production practices, statistics, and labor statistics. Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the scientific issues for this meeting. Nominees should be identified by name, occupation, position, address, and telephone number. Nominations should be provided to the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before September 22, 2008. The Agency will consider all nominations of prospective candidates for this meeting that are received on or before this date. However, final selection of ad hoc members for this meeting is a discretionary function of the Agency.

The selection of scientists to serve on the FIFRA SAP is based on the function of the panel and the expertise needed to address the Agency's charge to the panel. No interested scientists shall be ineligible to serve by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency except the EPA. Other factors considered during the selection process include availability of the potential panel member to fully participate in the panel's reviews, absence of any conflicts of interest or appearance of lack of impartiality, independence with respect to the matters under review, and lack of bias. Although financial conflicts of interest, the appearance of lack of impartiality, lack of independence, and bias may result in disqualification, the absence of such concerns does not assure that a candidate will be selected to serve on the FIFRA SAP. Numerous qualified candidates are identified for each panel. Therefore, selection decisions involve carefully weighing a number of factors including the candidates' areas of expertise and professional qualifications and achieving an overall balance of different scientific perspectives on the panel. In order to have the collective breadth of experience needed to address the Agency's charge for this meeting, the Agency anticipates selecting approximately 10 to 12 ad hoc scientists.

FIFRA SAP members are subject to the provisions of 5 CFR part 2634, Executive Branch Financial Disclosure, as supplemented by the EPA in 5 CFR part 6401. In anticipation of this requirement, prospective candidates for service on the FIFRA SAP will be asked to submit confidential financial information which shall fully disclose, among other financial interests, the candidate's employment, stocks and bonds, and where applicable, sources of research support. The EPA will evaluate the candidates financial disclosure form to assess whether there are financial conflicts of interest, appearance of a lack of impartiality or any prior involvement with the development of the documents under consideration (including previous scientific peer

review) before the candidate is considered further for service on the FIFRA SAP. Those who are selected from the pool of prospective candidates will be asked to attend the public meetings and to participate in the discussion of key issues and assumptions at these meetings. In addition, they will be asked to review and to help finalize the meeting minutes. The list of FIFRA SAP members participating at this meeting will be posted on the FIFRA SAP website at *http://epa.gov/scipoly/sap* or may be obtained from the OPP Regulatory Public Docket at *http://www.regulations.gov*.

II. Background

A. Purpose of the FIFRA SAP

The FIFRA SAP serves as the primary scientific peer review mechanism of EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) and is structured to provide scientific advice, information and recommendations to the EPA Administrator on pesticides and pesticide-related issues as to the impact of regulatory actions on health and the environment. The FIFRA SAP is a Federal advisory committee established in 1975 under FIFRA that operates in accordance with requirements of the Federal Advisory Committee Act. The FIFRA SAP is composed of a permanent panel consisting of seven members who are appointed by the EPA Administrator from nominees provided by the National Institutes of Health and the National Science Foundation. FIFRA, as amended by FQPA, established a Science Review Board consisting of at least 60 scientists who are available to the Scientific Advisory Panel on an ad hoc basis to assist in reviews conducted by the Scientific Advisory Panel. As a peer review mechanism, the FIFRA SAP provides comments, evaluations and recommendations to improve the effectiveness and quality of analyses made by Agency scientists. Members of the FIFRA SAP are scientists who have sufficient professional qualifications, including training and experience, to provide expert advice and recommendation to the Agency.

B. Public Meeting

Extensive investigation of hand labor activities in agriculture and subsequent occupational, post-application exposure monitoring were conducted as a result of an EPA data call-in (DCI) in 1995. An industry task force, the Agricultural Reentry Task Force (ARTF), was formed to produce the data to satisfy the data requirements. In conjunction with the U.S Environmental Protection Agency (EPA), Health Canada's Pest Management Regulatory Agency (PMRA), and the California Department of Pesticide Regulation (CDPR), the Task Force proposed and conducted exposure monitoring studies for field workers engaged in hand labor activities in a variety of crops across agriculture.

The data from the completed studies now comprise a generic database for use in conducting occupational post-application exposure assessment in all agricultural settings. Based on the types of crops and activities monitored, the database is organized into crop-activity groups, or clusters, designed to represent, and enable exposure assessment of all hand labor activities that occur in agriculture.

During this meeting of the FIFRA SAP, the Agency will provide an overview of occupational post-application monitoring studies conducted by the ARTF as well as the proposed organization, content, structure, and characteristics of the database. The overview will contain discussions of the criteria used to define the appropriate activities to monitor, how crops and crop activities were grouped into clusters, how the completed data are interpreted and used, and the general methodology and assumptions underlying post-application exposure assessments. Finally, the regulatory agencies will discuss the peer review process that was followed in developing and making decisions on the use of this database.

The goal of this meeting is for the Agency to seek comments from the FIFRA SAP on the adequacy of the data collected, the appropriateness of the clustering decisions, the utility of the database for occupational post-application exposure assessment in agricultural settings, and some of the critical assumptions used in estimating exposures.

C. FIFRA SAP Documents and Meeting Minutes

EPA's background paper, related supporting materials, charge/questions to the FIFRA SAP, FIFRA SAP composition (i.e., members and ad hoc members for this meeting), and the meeting agenda will be available by late November 2008. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, at *http://www.regulations.gov* and the FIFRA SAP homepage at *http://www.epa.gov/scipoly/sap*.

The FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency approximately 90 days after the meeting. The meeting minutes will be posted on the FIFRA SAP website or may be obtained from the OPP Regulatory Public Docket at *http://www.regulations.gov*.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 4, 2008.

Elizabeth A. Resek,

Acting Director, Office of Science Coordination and Policy.

[FR Doc. E8–21147 Filed 9–11–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0335; FRL–8380–8]

Nuosept 145 Registration Review; Antimicrobial Pesticide Dockets Opened for Review and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established registration review dockets for the pesticides listed in the table in Unit III.A. With this document, EPA is opening the public comment period for these registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before December 11, 2008.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to the docket ID numbers listed in the table in Unit III.A. for the pesticides you are commenting on. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 docket index available at regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: For general questions on the registration review program, contact Kevin Costello, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5026; fax number: (703) 308–8090; e-mail address: *costello.kevin@epa.gov*. For information about the pesticides included in this document, contact the specific Chemical Review Manager as identified in the table in Unit III.A. for the pesticide of interest.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at

40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be periodically reviewed. The goal is a review of a pesticide's registration every 15 years. Under FIFRA section 3(a), a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What Action is the Agency Taking?

As directed by FIFRA section 3(g), EPA is periodically reviewing pesticide registrations to assure that they continue to satisfy the FIFRA standard for registration — that is, they can still be used without unreasonable adverse effects on human health or the environment. The implementing regulations establishing the procedures for registration review appear at 40 CFR part 155. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE—REGISTRATION REVIEW DOCKETS OPENING

Registration Review Case Name and Number	Pesticide Docket ID Number	Chemical Review Manager, Telephone Number, E-mail Address
Nuosept 145 Case 3052	EPA–HQ–OPP–2008–0335	Eliza Blair, (703) 308–7279, blair.eliza@epa.gov

B. Docket Content

1. *Review dockets*. The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information*. More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency's website at *http://www.epa.gov/oppsrrd1/registration_review/schedule.htm*. Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review*.

3. *Information submission requirements*. Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.
- As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Pesticides and pests, antimicrobials.

Dated: September 3, 2008.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. E8–21134 Filed 9–11–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0195; FRL–8380–7]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by March 11, 2009 or October 14, 2008 for registrations for which the registrant requested a waiver of the 180–day comment period, orders will be issued canceling these registrations. The Agency will consider withdrawal

requests postmarked no later than March 11, 2009 or October 14, 2008, whichever is applicable. Comments must be received on or before March 11, 2009 or October 14, 2008, for those registrations where the 180–day comment period has been waived.

ADDRESSES: Submit your comments and your withdrawal request, identified by docket identification (ID) number EPA–HQ–OPP–2008–0195, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2008–0195. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: John Jamula, Information Technology and Resource Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6426; e-mail address: *jamula.john@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to cancel 215 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit:

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration no.	Product Name	Chemical Name
000004–00029	Bonide Vegetable Floral Dust or Spray	Basic copper sulfate
		Carbaryl
		Rotenone
000004–00030	Bonide Rotenone-Copper Dust	Basic copper sulfate
		Rotenone
000004–00053	Bonide Cuke and Melon Dust	Basic copper sulfate
		Rotenone
000004–00107	Bonide Garden Dust for Vegetables-Flowers	Basic copper sulfate
		Pyrethrins
		Rotenone
		Sulfur
000004–00153	Systemic Granules contains Di-Syston	Disulfoton
000004–00159	Bonide V-1 Vapona Fog, Mist or Spray Insecticide	Dichlorvos
000004–00237	Bonide Sevin* 2 Flowable Insecticide	Carbaryl
000004–00253	Bonide Systemic Granules 1%	Disulfoton
000004–00290	Bonide Turf, Garden & Ornamental Fungicide 50% Wp	Chlorothalonil
000004–00335	Bonide Weed Beater Crabgrass and Lawn Weed Killer	DSMA
		2,4-D, dimethylamine salt
000004–00387	Bonide Sevin Wettable Powder	Carbaryl
000004–00415	Sevin 4F Agricultural Insecticide	Carbaryl
		Propylene glycol
000004–00420	Bonide Systemic Rose & Flower Care	Disulfoton
000004–00436	Bonide Complete Fruit Tree Spray	Copper salts of fatty and rosin acids
		Pyrethrins
		Rotenone
000004–00444	Bonide Systemic Insecticide Granules	Acephate
000004–00445	Bonide Systemic Insecticide Granules with Fertilizer	Acephate
000192–00191	Dexol Bordeaux Fungicide	Basic copper sulfate
000228–00388	Riverdale MMMCCCXXXVI F	Thiophanate-methyl
000228–00390	Riverdale CTM Fungicide	Chlorothalonil
		Thiophanate-methyl
000239–00309	Orthorix Spray	Calcium polysulfide
000239–02453	Orthene Systemic Rose & Flower Care 8-8-8	Acephate
000239–02472	Orthene Granules	Acephate
000239–02528	Ortho Dormant Insect & Disease Control	Aliphatic petroleum solvent

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
		Calcium polysulfide
000241–00294	Contain Herbicide	2-(4,5-Dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl)-3-pyridinecarboxylic acid
000241 OH–99–0003	Acrobat MZ Fungicide	Mancozeb
		Dimethomorph
000241 SC–99–0002	Acrobat MZ Fungicide	Mancozeb
		Dimethomorph
000264–00742	Baytan Seed Treatment Fungicide	Triadimenol
000264–00760	Baytan 2.6 FS Seed Treatment Fungicide	Triadimenol
000264–00980	Protege Allegiance Baytan W.P. Fungicide	Metalaxyl
		Triadimenol
		Azoxystrobin
000264 OR–95–0034	Gustafson RTU-Vitavax-Thiram Seed Protectant Fungicide	Thiram
		Carboxin
000264 WA–97–0032	Gustafson 42-S Thiram Fungicide	Thiram
000264 WA–97–0036	Gustafson 42-S Thiram Fungicide	Thiram
000270–00351	Adams 14-Day Flea Dip	2,5-Pyridinedicarboxylic acid, dipropyl ester
		MGK 264
		Piperonyl butoxide
		Pyrethrins
		Permethrin
000279–03044	Ammo 2.5 Oil Insecticide	Cypermethrin
000279–03046	Ammo 2.5 Miscible Insecticide	Cypermethrin
000279–03084	Ammo WSB Insecticide	Cypermethrin
000279 WA–91–0006	Furadan 4F	Carbofuran
000352–00683	Basicop	Basic copper sulfate
000352–00695	Griffin Ethepan MUP	Ethephon
000352–00707	GX-270	Copper hydroxide
		Copper sulfate pentahydrate
000352–00711	Copper Hydroxide MUP	Copper hydroxide
000352–00719	Dupont Lineage Herbicide	2-(4,5-Dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl)-3-pyridinecarboxylic acid
000352–00720	Dupont Lineage 4 Herbicide	2-(4,5-Dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl)-3-pyridinecarboxylic acid
000352 AR–00–0002	Kocide 2000	Copper hydroxide

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
000352 LA–00–0002	Kocide 2000	Copper hydroxide
000352 MS–00–0007	Kocide 2000	Copper hydroxide
000400–00425	Omite -CR (for California Only)	Propargite
000400–00426	Omite-CR	Propargite
000400 FL–82–0094	Vitavax-200 Flowable Fungicide (vitavax with Thiram)	Thiram
		Carboxin
000400 MT–85–0002	Vitavax-200 Flowable Fungicide (vitavax with Thiram)	Thiram
		Carboxin
000464–00699	Ucarcide 114 Antimicrobial	Glutaraldehyde
		Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16)
000464–00701	Ucarcide 142 Antimicrobial	Glutaraldehyde
		Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16)
000707 CT–02–0001	Dithane DF Agricultural Fungicide	Mancozeb
000707 KY–02–0001	Dithane DF Agricultural Fungicide	Mancozeb
000769–00681	SMCP St. Augustine Grass Broadleaf Herbicide	Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmethanamine (1:1)
		2,4-D, dimethylamine salt
		Mecoprop, dimethylamine salt
000769–00851	Pratt Dandelion Destroyer	Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmethanamine (1:1)
		2,4-D, dimethylamine salt
000769–00859	Pratt Chickweed & Clover Killer	Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmethanamine (1:1)
		2,4-D, dimethylamine salt
		Mecoprop, dimethylamine salt
000769–00902	Science Lawn Weed-Killer	Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmethanamine (1:1)
		2,4-D, dimethylamine salt
000769–00950	Pratt Turf Herbicide 6000	Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmethanamine (1:1)
		2,4-D, dimethylamine salt
		Mecoprop, dimethylamine salt
000829–00006	SA 50 Brand Tomato Dust	Basic copper sulfate
000829–00258	SA-50 Brand Neutral Copper Fungicide	Basic copper sulfate
001001–00065	Protect T/O WSB Turf and Ornamental Fungicide In Water	Mancozeb

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
001278–00005	Triangle Brand Copper Sulfate Instant Powder	Copper sulfate pentahydrate
001278–00008	Triangle Brand Copper Sulfate Crystal	Copper sulfate pentahydrate
001386–00625	Dimethoate 400	Dimethoate
001812–00293	Technical Copper Sulfate Pentahydrate Crystals	Copper sulfate pentahydrate
001812–00313	Blue Viking Copper Sulfate Instant	Copper sulfate pentahydrate
001812–00372	Tennessee Brand Tri-Basic Copper Sulfate	Basic copper sulfate
001812–00379	Copper Sulfate Instant	Copper sulfate pentahydrate
002217–00613	Gordon's Bordeaux Mixture	Copper sulfate pentahydrate
002724–00655	Security Ornamental and Fruit Spray Oil	Aliphatic petroleum solvent
002935–00459	Wilbur-Ellis Baytan Flowable	Triadimenol
003008–00083	NW 100	Copper ethanolamine complex
		Alkyl* dimethyl benzyl ammonium chloride *(67%C12, 25%C14, 7%C16, 1%C18)
003377–00007	M-B-R 98 Fumigant	Methyl bromide
003377–00016	M-B-R 2 Penetrating Fumigating	Methyl bromide
003377–00017	Dowfume MC-33 Fumigant	Methyl bromide
		Chloropicrin
003377–00030	M-B-R 75	Methyl bromide
		Chloropicrin
003432–00068	Winter Powder Algaecide	Copper sulfate pentahydrate
004822–00379	Raid Flea Killer Formula II	Piperonyl butoxide
		Phenothrin
005383–00123	Troy 2063	1,2-Benzisothiazolin-3-one
		2,4-Imidazolidinedione, 1,3-bis(hydroxymethyl)-5,5-dimethyl-
		2,4-Imidazolidinedione, 1-(hydroxymethyl)-5,5-dimethyl-
005481–00135	Alco Copper Bordeau 125	Basic copper sulfate
005481–00140	Alco Cutrine Algaecide Rtu	Copper triethanolamine complex
005481–00322	Royal Brand Tomato Dust	Basic copper sulfate
005481–00510	Leffingwell Supreme 415 Oil	Aliphatic petroleum solvent
005887–00143	Black Leaf Lime Sulfur Spray	Calcium polysulfide
005905–00496	Setre 1.5 Lb. Benfluralin E.c.	Benfluralin
005905–00510	MCPA Sodium Salt	MCPA, sodium salt
007364–00010	Algimycin PII	Copper as metallic (in the form of chelates of copper citrate and copper gluconate)
007364–00026	Slow Release	Copper sulfate pentahydrate
007364–00083	Pool-Pal 300 Algaecide	Copper triethanolamine complex
007364–00084	Pool-Pal 30 Algaecide	Copper triethanolamine complex

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
007401–00126	Ferti Lome Scale Insect Spray	Aliphatic petroleum solvent
007401–00304	Hi-Yield Systemic Vegetation Killer	Glyphosate-isopropylammonium
007401–00306	Hi-Yield Systemic Weed and Grass Killer	Glyphosate-isopropylammonium
007401–00307	Hi-Yield Ready To Use Systemic Weed and Grass Killer	Glyphosate-isopropylammonium
007401–00357	Ferti-Lome Systemic Vine Killer	Glyphosate-isopropylammonium
007401–00373	Hi-Yield Bordeaux Mix Fungicide	Basic copper sulfate
007401–00400	Ferti-Lome Ready-To-Use Vine Killer	Glyphosate-isopropylammonium
007401–00401	Hi-Yield Ready-To-Use Weed and Grass Killer	Glyphosate-isopropylammonium
007401–00402	Ferti-Lome Ready-To-Use Systemic Nutgrass Killer	Glyphosate-isopropylammonium
007401–00403	Hi-Yield Ready-To-Use Vegetation Killer	Glyphosate-isopropylammonium
007401–00404	Hi-Yield Systemic Weed and Grass Killer Conc.	Glyphosate-isopropylammonium
007401–00405	Hi-Yield Systemic Rope & Wick Applicator Mix	Glyphosate-isopropylammonium
007754–00040	Bug Barrier	2,5-Pyridinedicarboxylic acid, dipropyl ester
		MGK 264
		Diethyl toluamide
007969–00030	Rebelate Dimethoate Systemic Insecticide	Dimethoate
007969–00038	Rebelate 2e Insecticide	Dimethoate
008622–00070	Halobrom Bcdmh 96%	2,4-Imidazolidinedione, 1-bromo-3-chloro-5,5-dimethyl-
008660–00082	Green Up Caterpillar Spray	Bacillus thuringiensis subsp. kurstaki
008660–00199	Koos Bayleton 0.78% Granule Fungicide	Triadimefon
008959–00020	Cutrine-Plus II Algaecide	Copper triethanolamine complex
008959–00031	Trine B.A.C.	Copper triethanolamine complex
		Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16)
009198–00206	Scotts TGR POA Annual Control	Ethofumesate
009444–00032	Purge Total Release Insecticide with Vapona	Dichlorvos
009688–00179	Chemsico Dormant Oil Spray	Aliphatic petroleum solvent
009779–00142	Riverside Sodium Chlorate	Sodium chlorate
009779–00305	Sodium Chlorate 6	Sodium chlorate
009779–00324	Tropic Supreme Oil	Aliphatic petroleum solvent
009779–00332	Asgrow Citrus Oil	Aliphatic petroleum solvent
009779–00336	Riverside Dormant Oil 415	Aliphatic petroleum solvent
009779–00352	Thiodicarb 3.2	Thiodicarb
010163–00055	Prokil Dimethoate W-25 Insecticide	Dimethoate
010163–00107	Gowan Procop R	Copper hydroxide
010163–00122	D-Leaf M Cotton Defoliant	Sodium chlorate

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
010163–00159	Cupric Hydroxide Technical	Copper hydroxide
010163–00160	Gowan Dimethoate 4	Dimethoate
010163–00211	Gowan Dimethoate Technical	Dimethoate
010806–00017	Contact Animal Guard	2,5-Pyridinedicarboxylic acid, dipropyl ester
		MGK 264
		Piperonyl butoxide
		Pyrethrins
017545–00007	Zinc-Copper Spray 25%-25%	Basic copper sulfate
019713–00489	Drexel 8020 I	Aliphatic petroleum solvent
019713 ID–97–0008	Drexel Dimethoate 4EC	Dimethoate
019713 OR–96–0023	Drexel Dimethoate 2.67	Dimethoate
019713 TN–96–0003	Drexel Dimethoate 4EC	Dimethoate
019713 UT–94–0001	Drexel Dimethoate 4EC	Dimethoate
032802–00041	Pro-Tek Turf Fungicide	Triadimefon
032802–00042	Pro-Tek Lawn Fungicide	Triadimefon
033955–00097	Acme Bordeaux Mixture	Basic copper sulfate
033955–00420	Acme Lime-Sulfur Spray	Calcium polysulfide
034704–00695	Clean Crop Sodium Chlorate	Sodium chlorate
034911–00025	Hi-Yield Systemic Rope & Wick Applicator Mix	Glyphosate-isopropylammonium
035253–00004	Agra-Cop 50WP	Copper oxychloride (Cu2Cl(OH)3)
035276–00002	Diamond Brand 455 Soluble Oil	Aliphatic petroleum solvent
043591–00002	Flea & Tick Mist	2,5-Pyridinedicarboxylic acid, dipropyl ester
		MGK 264
		Piperonyl butoxide
		Pyrethrins
045309–00028	Swim Free Algaecide for Swimming Pools	Copper triethanolamine complex
045309–00036	Nice 'n Clear Swimming Pool Algaecide	Copper triethanolamine complex
045309–00041	Swim Free Non-Foaming Winterizer	Copper triethanolamine complex
045309–00042	Free-N Clear 45 Swimming Pool Algaecide	Copper triethanolamine complex
047000–00110	Cygon 2-E Systemic Insecticide	Dimethoate
047000–00141	Flygon 2-E	Dimethoate
049403–00028	Nipacide CBX	1,2-Benzisothiazolin-3-one
		5-Chloro-2-methyl-3(2H)-isothiazolone
		2-Methyl-3(2H)-isothiazolone
049585–00021	Super K-Gro Vegetable Garden Dust	Bacillus thuringiensis subsp. kurstaki

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
051036–00015	Microsperse Copper 53	Basic copper sulfate
051036–00082	Micro-Flo Copper 3 FL	Copper oxychloride (Cu2Cl(OH)3)
051036–00208	Micro Flo Copper/Sulfur Flowable	Basic copper sulfate
		Sulfur
051036–00268	Nu-Cop 3l	Copper hydroxide
051036–00269	Nu-Cop 50DF	Copper hydroxide
051036–00272	Micro Flo Cop-O-Zinc	Basic copper sulfate
051036–00273	Coc 50 WDG	Copper oxychloride (Cu2Cl(OH)3)
051036–00276	Copper Hydroxide 90%	Copper hydroxide
053883–00113	Super-Fine Spray Oil	Mineral oil - includes paraffin oil from 063503
055146–00009	Copper Power Brand	Basic copper sulfate
055146–00014	Copzin	Basic copper sulfate
055146–00015	Acp Copper Oxychloride Technical	Copper oxychloride (Cu2Cl(OH)3)
055146–00016	Champion 20/20	Copper hydroxide
055146–00022	Copro 53	Copper oxychloride sulfate
055146–00023	Copro 50	Copper oxychloride sulfate
055146–00040	COC 50WP	Copper oxychloride (Cu2Cl(OH)3)
055146–00041	Champ Flowable	Copper hydroxide
055146–00043	Copper Oxychloride Technical	Copper oxychloride (Cu2Cl(OH)3)
055146–00050	Champ 30 WDG	Copper hydroxide
055146–00060	Copper Hydroxide Technical	Copper hydroxide
062719–00011	Dursban 4E Insecticide	Chlorpyrifos
062719–00047	Dursban TC	Chlorpyrifos
062719–00065	Dursban 2E	Chlorpyrifos
062719–00069	Dursban WT Insecticidal Wood Treatment Concentrate	Chlorpyrifos
062719–00077	Lentrek* 6 WT	Chlorpyrifos
062719–00088	Dursban ME20	Chlorpyrifos
062719–00089	Dursban ME04 Microencapsulated	Chlorpyrifos
062719–00090	Dursban ME02 Microencapsulated	Chlorpyrifos
062719–00210	Dursban 1G Insecticide	Chlorpyrifos
062719–00271	Dursban 1F	Chlorpyrifos
062719–00276	Dursban 2.5G	Chlorpyrifos
062719 AZ–07–0005	Lorsban-4E	Chlorpyrifos
062719 TN–99–0004	Dithane DF Agricultural Fungicide	Mancozeb
064004–00001	Frostban A	Pseudomonas Syringae 742RS

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
064004–00003	Frostban C	Pseudomonas Syringae 742RS
064004–00004	Frostban D	
064962–00001	Earthtec	Copper sulfate pentahydrate
066300 PR–92–0002	Mocap 10% Granular Nematicide - Insecticide	Ethoprop
066330–00208	Micro Flo DDVP Em-2	Dichlorvos
066330–00214	Thiram 75WP Fungicide	Thiram
066330–00215	Vapona 2 EC	Dichlorvos
066330–00254	Fluometuron Technical	Fluometuron
066330 MN–07–0005	Chlorpyrifos 4# AG	Chlorpyrifos
066330 WA–02–0017	Iprodione 4l AG	Iprodione
067517–00038	5% Dichlorvos (DDVP) Insecticide	Dichlorvos
067690–00008	A & V - 70 Granular Algaecide	Copper triethanolamine complex
067690–00011	A & V-70 Plus Algaecide	Copper triethanolamine complex
067760–00036	Dimethoate 2.67 EC Organophosphate - Systemic Insectici	Dimethoate
070506–00128	UPI Imazethapyr Technical Herbicide	Imazethapyr
070506–00135	UPI Imazapyr Technical	Imazapyr
070506–00159	Mazamax 2f Herbicide	Ammonium salt of ()-2-(4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl)-5-e
070506–00177	Maneb 80 WPp Fungicide	Maneb
070506–00181	Maneb Technical	Maneb
070506–00184	Maneb 4fL Flowable Fungicide	Maneb
070506–00186	Maneb 75DF Dry Flowable Fungicide	Maneb
071096–00015	Bonide Snail, Slug & Sowbug Bait	Metaldehyde
		Carbaryl
071368–00017	Rhonox Gel Emulsifiable Broadleaf Herbicide	MCPA, 2-ethylhexyl ester
071368 MA–79–0001	Weedar 64 Broadleaf Herbicide	2,4-D, dimethylamine salt
073782–00002	Demosan 65w	Chloroneb
075506–00001	Wolman 3488 Wood Preservative	Boric acid
		Copper carbonate
		Propiconazole
075506–00002	Wolman 3490	Boric acid
		Copper carbonate
		Tebuconazole
075506–00004	Wolman E	Boric acid
		Copper carbonate

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
		Tebuconazole
079558–00003	Caffaro Copper Oxychloride WP	Copper oxychloride (Cu2Cl(OH)3)
079676 AR–07–0010	Chlorpyrifos E-Pro 4 Insecticide	Chlorpyrifos
081142–00005	Dicam	Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmethanamine (1:1)

A request to waive the 180–day comment period has been received for the following registrations: 000004-00153; 000004-00253; 000004-00420; 000228-00390; 000279-03044; 000279-03046; 000279-03084; 002935-00459; 008660-00082; 009444-00032; 009688-00179; 032802-00041; 032802-00042; 049585-00021; 070506-00177; 070506-00181; 070506-00184; 070506-00186.

Unless a request is withdrawn by the registrant within 30 days of publication of this notice for registrations in which the 180 day comment period has been waived, or 180 days of publication for all other registrations, orders will be issued canceling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during the 180–day or the 30–day comment period, whichever is applicable.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number:

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company no.	Company Name and Address
000004	Bonide Products, Inc., 6301 Sutliff Rd., Oriskany, NY 13424.
000192	Value Gardens Supply, LLC, d/b/a Value Garden Supply, Po Box 585, Saint Joseph, MO 64502.
000228	Nufarm Americas Inc., 150 Harvester Drive, Suite 200, Burr Ridge, IL 60527.
000239	The Scotts Co., d/b/a The Ortho Group, Po Box 190, Marysville, OH 43040.
000241	BASF Corp., PO Box 13528, Research Triangle Park, NC 277093528.
000264	Bayer Cropscience LP, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709.
000270	Farnam Companies, Inc., d/b/a Central Life Sciences, 301 W. Osborn Rd., Phoenix, AZ 85013.
000279	FMC Corp. Agricultural Products Group, 1735 Market St., Philadelphia, PA 19103.
000352	E. I. Du Pont De Nemours and Co., Inc., Dupont Crop Protection (s300/427), PO Box 30, Newark, DE 197140030.
000400	Chemtura Corp., Attn: Crop Registration, 199 Benson Rd. (2-5), Middlebury, CT 06749.
000464	The Dow Chemical Co., Agent For: Dow Chemical Co., The, 1500 E. Lake Cook Rd., Buffalo Grove, IL 60089.
000707	Rohm & Haas Co, Attn: James V. Hagan, 100 Independence Mall W., Philadelphia, PA 191062399.
000769	Value Gardens Supply, LLC, d/b/a Value Garden Supply, PO Box 585, Saint Joseph, MO 64502.
000829	Southern Agricultural Insecticides, Inc., PO Box 218, Palmetto, FL 34220.
001001	Cleary Chemicals, LLC, 178 Ridge Rd., Suite A, Dayton, NJ 088100010.
001278	Phelps Dodge Refining Corp., PO Box 20001, El Paso, TX 79998.
001386	Universal Cooperatives Inc., 1300 Corporate Center Curve, Eagan, MN 55121.
001812	Dupont Crop Protection/stine-Haskell Research Center, Agent For: Griffin L.L.C., PO Box 30, Newark, DE 197140030.
002217	PBI/Gordon Corp., PO Box 014090, Kansas City, MO 641010090.
002724	Wellmark International, 1501 E. Woodfield Rd., Suite 200 W., Schaumburg, IL 60173.
002935	Wilbur Ellis Co., PO Box 1286, Fresno, CA 93715.

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company no.	Company Name and Address
003008	Osmose Inc., 980 Ellicott St, Buffalo, NY 14209.
003377	Albemarle Corp., 451 Florida Street, Baton Rouge, LA 708011765.
003432	N. Jonas&Co., Inc., PO Box 425, Bensalem, PA 19020.
004822	S.C. Johnson & Son Inc., 1525 Howe Street, Racine, WI 53403.
005383	Troy Chemical Corp., PO Box 955, Florham Park, NJ 079324200.
005481	Amvac Chemical Corp., d/b/a Amvac, 4695 Macarthur Ct., Suite 1250, Newport Beach, CA 926601706.
005887	Value Gardens Supply, LLC, d/b/a Value Garden Supply, PO Box 585, Saint Joseph, MO 64502.
005905	Helena Chemical Co, 225 Schilling Blvd., Suite 300, Collierville, TN 38017.
007364	Glb Pool & Spa, W175 N11163 Stonewood Drive, Suite 234, Germantown, WI 530224799.
007401	Voluntary Purchasing Groups, Inc., PO Box 460, 230 Fm 87, Bonham, TX 75418.
007754	Adams Technology Systems, Agent For: ARI, 5145 Forest Run Trace - Suite B, Alpharetta, GA 300224504.
007969	BASF Corp., Agricultural Products, PO Box 13528, Research Triangle Park, NC 277093528.
008622	ICI-Ip America, Inc., 95 Maccorkle Ave. Southwest, South Charleston, WV 253031411.
008660	United Industries Corp., d/b/a Sylorr Plant Corp., Po Box 142642, St. Louis, MO 631140642.
008959	Applied Biochemists, W175 N11163 Stonewood Drive, Suite 234, Germantown, WI 530224799.
009198	The Andersons Lawn Fertilizer Division, Inc., dba/ Free Flow Fertilizer, PO Box 119, Maumee, OH 43537.
009444	Waterbury Companies Inc., PO Box 640, Independence, LA 70443.
009688	Chemsico, Div of United Industries Corp., PO Box 142642, St Louis, MO 631140642.
009779	Winfield Solutions, LLC, PO Box 64589, St Paul, MN 551640589.
010163	Gowan Co, PO Box 5569, Yuma, AZ 853665569.
010806	Contact Industries, Div of Safeguard Chemical Corp., 411 Wales Ave, Bronx, NY 10454.
017545	Monterey Agresources, PO Box 35000, Fresno, CA 937455000.
019713	Drexel Chemical Co., PO Box 13327, Memphis, TN 381130327.
032802	Howard Johnson's Enterprises Inc., 700 W. Virginia St Ste 222, Milwaukee, WI 532041548.
033955	PBI/Gordon Corp., Attn: James L. Kunstman, Po Box 014090, Kansas City, MO 641010090.
034704	Loveland Products, Inc., PO Box 1286, Greeley, CO 806321286.
034911	Hi-Yield Chemical Co., PO Box 460, 230 FM 87, Bonham, TX 75418.
035253	Alice Walker Consulting, Agent For: Brandt Consolidated, Inc., 3094 Country Club Rd., Senatobia, MS 38668.
035276	Diamond R Fertilizer Co., Inc., 4100 Glades Rd, Fort Pierce, FL 34981.
043591	Veterinary Products Laboratories, PO Box 34820, Phoenix, AZ 85067.
045309	Aqua Clear Industries, LLC., PO Box 2456, Suwanee, GA 300240980.
047000	Chem-Tech, Ltd., 4515 Fleur Dr. #303, Des Moines, IA 50321.
049403	Lewis&Harrison, Agent For: Clariant Corp., 122 C St Nw Ste 740, Washington, DC 20001.
049585	Alljack, Division of United Industries Corp., PO Box 142642, St Louis, MO 631140642.
051036	BASF Sparks LLC, PO Box 13528, Research Triangle Park, NC 27709.
053883	Control Solutions, Inc., 5903 Genoa-Red Bluff, Pasadena, TX 775071041.
055146	Nufarm Americas Inc., AGT Division, 150 Harvester Drive Suite 200, Burr Ridge, IL 60527.

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company no.	Company Name and Address
062719	Dow Agrosciences LLC, 9330 Zionsville Rd 308/2e, Indianapolis, IN 462681054.
064004	Frost Technologies, 150 Harvester Drive Suite 200, Burr Ridge, IL 60527.
064962	Earth Science Laboratories, Inc., 113 SE 22nd Street, Suite 1, Bentonville, AR 72712.
066300	Aventis Cropscience Usa LP, Agent For: Aventis Cropscience Puerto Rico, PO Box 12014, Research Triangle Park, NC 27709.
066330	Arysta Lifescience North America, LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513.
067517	PM Resources Inc., 13001 St. Charles Rock Rd, Bridgeton, MO 63044.
067690	Sepro Corp., 11550 N. Meridian St Suite 600, Carmel, IN 46032.
067760	Cheminova Inc., 1700 Route 23 - Ste 300, Wayne, NJ 07470.
070506	United Phosphorus, Inc., 630 Freedom Business Center, Suite 402, King Of Prussia, PA 19406.
071096	Regulatory Services, Inc., Agent For: Or-Cal Inc., 17220 Westview Rd., Oswego, OR 97034.
071368	Nufarm, Inc., 150 Harvester Drive Suite 200, Burr Ridge, IL 60527.
073782	Kincaid Inc., PO Box 490, Athens, TN 37371.
075506	Arch Treatment Technologies, Inc., 1955 Lake Park Drive, Smyrna, GA 30080.
079558	Isagro Usa, Agent For: Isagro S.P.A., 430 Davis, Morrisville, NC 27560.
079676	Pyxis Regulatory Consulting, Inc., Agent For: Gro-Pro, Llc, 4110 136th Street, Northwest, Gig Harbor, WA 98332.
081142	Libertas Now, Inc., 419 Fourth Street, Annapolis, MD 21403.

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked no later than March 11, 2009, or no later than October 14, 2008 for those registrations for which the registrants requested a waiver of the 180 day comment period. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4). Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a special review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 3, 2008.

Kathryn Bouvé,

Acting Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. E8–21141 Filed 9–11–08; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

[AU Docket No. 08–22; Report No. AUC–08–85–F (Auction 85); DA 08–1944]

Auction of LPTV and TV Translator Digital Companion Channels Scheduled for November 5, 2008; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction 85

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the procedures and minimum opening bids for the upcoming auction of LPTV and TV Translator Digital Companion Channels (Auction 85). This document is intended to familiarize prospective bidders with the procedures and minimum opening bids for the auction.

DATES: Auction 85 is scheduled to begin on November 5, 2008.

FOR FURTHER INFORMATION CONTACT: Wireless Telecommunications Bureau, Auctions Spectrum and Access Division: For legal questions: Lynne Milne at (202) 418–0660. For general auction questions: Roy Knowles or Linda Sanderson at (717) 338–2868. Media Bureau, Video Division: For licensing information and service rule questions: Shaun Maher (legal) or Hossein Hashemzadeh (engineering) at (202) 418–1600. To request materials in accessible formats (Braille, large print, electronic files or audio format) for people with disabilities, send an e-mail to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 or (202) 418–0432 (TTY).

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction 85 Procedures Public Notice*, which was released on September 2, 2008. The complete texts of the *Auction 85 Procedures Public Notice* including attachments, as well as related Commission documents, are available for public inspection and copying from 8 a.m. to 4:30 p.m. ET Monday through Thursday and from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The *Auction 85 Procedures Public Notice* and related Commission documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, facsimile 202–488–5563, or Web site: *http://www.BCPIWEB.com*. The *Auction 85 Procedures Public Notice* and related documents are also available on the Internet at the Commission's Web site: *http://wireless.fcc.gov/auctions/85/*.

I. General Information

A. Introduction

1. The Wireless Telecommunications Bureau and the Media Bureau (collectively, the Bureaus) announce the procedures and minimum opening bid amounts for the upcoming auction of construction permits for Low Power Television (LPTV), including Class A Television (TV), and TV Translator digital companion channels. This auction, which is designated Auction 85, is scheduled to commence on November 5, 2008. On July 17, 2008, in accordance with Section 309(j)(3) of the Communications Act of 1934, as amended, the Bureaus released a public notice seeking comment on minimum opening bid amounts and the procedures to be used in Auction 85. In addition, the Bureaus proposed an additional settlement period for applicants to use engineering solutions, dismissal requests or settlements to resolve conflicts among their digital companion channel engineering proposals. No comments were submitted in response to the *Auction 85 Comment Public Notice*, 73 FR 43230, July 24, 2008.

i. Construction Permits To Be Offered in Auction 85

2. Auction 85 will offer 44 construction permits for specified LPTV, including Class A TV, and TV Translator digital companion channels. Participation in this auction will be limited to those applicants for construction permits identified in Attachment A of the *Auction 85 Procedures Public Notice*.

3. Attachment A specifies the MX Groups accompanied by their respective minimum opening bids and upfront payments. Attachment A also lists the names of the applicants for construction permits in each MX Group. For each MX Group identified in Attachment A, competing applications were filed during the relevant filing period. All applications within an identified MX Group are directly mutually exclusive with one another, and therefore, a single construction permit will be auctioned for each MX Group identified in Attachment A.

B. Rules and Disclaimers

i. Relevant Authority

4. Prospective applicants must familiarize themselves thoroughly with the Commission's general competitive bidding rules, including recent amendments and clarifications, as well as Commission decisions in proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees. Broadcasters should also familiarize themselves with the Commission's rules relating to the television broadcast service contained in 47 CFR 73.601–73.699 and 73.1001–73.4280. Prospective applicants must also be familiar with the rules relating to competitive bidding proceedings contained in 47 CFR 1.2001–1.2112 and broadcast auctions contained in 47 CFR 73.3555, 73.5000–73.5009. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions (collectively, terms) contained in the *Auction 85 Procedures Public Notice* and the Commission's decisions in proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees.

ii. Prohibition of Collusion

5. Applicants for Auction 85 are reminded that they remain subject to the Commission's anti-collusion rule until the down payment deadline after the auction, which will be announced in a future public notice. This prohibition applies to all applicants listed in Attachment A regardless of whether such applicants become qualified bidders or actually bid. Applicants are also reminded that, for purposes of this prohibition, 47 CFR 1.2105(c)(7)(i) defines applicant as including all officers and directors of the entity submitting a short-form application to participate in the auction, all controlling interests of that entity, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application.

6. Parties subject to the anti-collusion rule are prohibited from communicating with each other about bids, bidding strategies, or settlements unless such applicants have identified each other on their short-form applications (FCC Form 175) as parties with whom they have entered into agreements pursuant to 47 CFR 1.2105(a)(2)(viii). Thus, competing applicants must affirmatively avoid all communications with each other that affect or, in their reasonable assessment,

have the potential to affect, bids or bidding strategy, which may include communications regarding the post-auction market structure. The anti-collusion rule prohibits not only a communication about an applicant's own bids or bidding strategy, but also a communication of another applicant's bids or bidding strategy. While the anti-collusion rule provisions do not prohibit business negotiations among auction applicants, applicants must remain vigilant so as not to communicate directly or indirectly information that affects, or could affect, bids or bidding strategy, or the negotiation of settlement agreements.

7. The Bureaus also remind Auction 85 applicants that they must not communicate indirectly to other applicants about bids or bidding strategy. Accordingly, Auction 85 applicants are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between such applicants. Also, if the authorized bidders are different individuals employed by the same organization (e.g., law firm or engineering firm or consulting firm), a violation similarly could occur. In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule. Moreover, the Commission has found a violation of the anti-collusion rule where an applicant used the Commission's bidding system to disclose its bidding strategy in a manner that explicitly invited other auction participants to cooperate and collaborate in specific markets, and has placed auction participants on notice that the use of its bidding system to disclose market information to competitors will not be tolerated and will subject bidders to sanctions. Applicants are cautioned that the Commission remains vigilant about prohibited communications taking place in other situations. For example, the Commission has warned that prohibited communications concerning bids and bidding strategies may include communications regarding capital calls or requests for additional funds in support of bids or bidding strategies to the extent such communications convey information concerning the bids and bidding strategies directly or indirectly.

8. Applicants are also reminded that, regardless of compliance with the Commission's rules, they remain subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. Compliance with the disclosure requirements of the Commission's anti-collusion rule will not insulate a party from enforcement of the antitrust laws.

9. If an applicant makes or receives a communication that appears to violate the anti-collusion rule, it must report such communication in writing to the Commission immediately and in no case later than five business days after the communication occurs. The Commission recently clarified that each applicant's obligation to report any such communication continues beyond the five-day period after the communication is made, even if the report is not made within the five-day period.

10. In addition, 47 CFR 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Thus, 47 CFR 1.65 requires an auction applicant to notify the Commission of any substantial change to the information or certifications included in its pending short-form application. Applicants are therefore required by 47 CFR 1.65 to report to the Commission any communications they have made to or received from another applicant after the short-form application filing deadline that affect or have the potential to affect bids or bidding strategy unless such communications are made to or received from parties to agreements identified under 47 CFR 1.2105(a)(2)(viii).

iii. Due Diligence

11. Potential applicants are reminded that they are solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the broadcast facilities they are seeking in this auction. Applicants should perform their individual due diligence before proceeding as they would with any new business venture.

12. Applicants are strongly encouraged to conduct their own research prior to Auction 85 in order to determine the existence of pending administrative or judicial proceedings that might affect their decisions regarding participation in the auction. Potential bidders for any new television facility in this auction are also reminded that full service television stations are in the process of converting from analog to digital operation and that stations may have pending applications to construct and operate digital television facilities, construction permits and/or licenses for such digital facilities. All LPTV and TV translator stations are secondary to full service stations and are subject to displacement by such stations. Bidders should investigate the impact such applications, permits and licenses may have on their ability to operate facilities based on the construction permits offered in this auction.

iv. Use of Integrated Spectrum Auction System

13. The Commission will make available a browser-based bidding system to allow bidders to participate in Auction 85 over the Internet using the Commission's Integrated Spectrum Auction System (ISAS or FCC Auction System). The Commission makes no warranty whatsoever with respect to the FCC Auction System. In no event shall the Commission, or any of its officers, employees or agents, be liable for any damages whatsoever (including, but not limited to, loss of business profits, business interruption, loss of business information, or any other loss) arising out of or relating to the existence, furnishing, functioning or use of the FCC Auction System that is accessible to qualified bidders in connection with this auction. Moreover, no obligation or liability will arise out of the Commission's technical, programming or other advice or service provided in connection with the FCC Auction System.

v. Environmental Review Requirements

14. Permittees or licensees must comply with the Commission's rules regarding implementation of the National Environmental Policy Act and other Federal environmental statutes.

C. Auction Specifics

i. Auction Date

15. Bidding in Auction 85 will begin on Wednesday, November 5, 2008.

16. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on construction permits will be conducted on each business day until bidding has stopped on all construction permits.

ii. Bidding Methodology

17. The bidding methodology for Auction 85 will be simultaneous multiple round bidding. The Commission will conduct this auction over the Internet using the FCC Auction

System, and telephonic bidding will be available as well. All telephone calls are recorded.

iii. Pre-Auction Dates and Deadlines

18. Dates and Deadlines

Auction Seminar	October 1, 2008.
Upfront Payments (via wire transfer).	October 10, 2008; 6 p.m. ET.
Mock Auction	November 3, 2008.
Auction Begins	November 5, 2008.

iv. Requirements for Participation

19. Those wishing to participate in the auction must: (1) Be listed on Attachment A; (2) submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) before 6 p.m. ET, October 10, 2008, following the procedures and instructions set forth in Attachment B to the *Auction 85 Procedures Public Notice*; and (3) comply with all provisions outlined in the Public Notice and applicable Commission rules.

II. Short-Form Application (FCC Form 175) Requirements

A. Minor Modifications to Short-Form Applications (FCC Forms 175)

20. Since the deadline for filing short-form applications (FCC Forms 175) passed on June 30, 2006, Auction 85 applicants may now make only minor changes to their applications.

B. Maintaining Current Information in Short-Form Applications (FCC Form 175)

21. 47 CFR 1.65 requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application.

III. Pre-Auction Procedures

A. Auction Seminar

22. On Wednesday, October 1, 2008, the FCC will sponsor a seminar for Auction 85 at the FCC headquarters, located at 445 12th Street, SW., Washington, DC. The seminar will provide attendees with information about pre-auction procedures, auction rules and conduct, and the FCC Auction System. The seminar will also provide an opportunity for prospective bidders to ask questions of FCC staff concerning the auction, auction procedures, and other matters related to this auction.

B. Minor Corrections to Applications

23. The Commission will issue a future public notice identifying: (1) Those applications which are complete; (2) those applications rejected; and (3) those applications which have minor defects that may be corrected, and the deadline for resubmitting corrected applications. Mutually exclusive commercial applications will proceed to auction.

C. Upfront Payments—Due October 10, 2008

24. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). Applicants in Auction 85 have access to an electronic version of the FCC Form 159 that can be printed and sent by facsimile to U.S. Bank in St. Louis, Missouri. All upfront payments must be received in the proper account at U.S. Bank before 6 p.m. ET on October 10, 2008.

i. Making Auction Payments by Wire Transfer

25. Wire transfer payments must be received before 6 p.m. ET on October 10, 2008, consistent with instructions set forth in the *Auction 85 Procedures Public Notice.*

ii. FCC Form 159

26. A completed FCC Remittance Advice Form (FCC Form 159, Revised 07/05) must be sent by facsimile to U.S. Bank to accompany each upfront payment. Proper completion of FCC Form 159 (Revised 2/03) is critical to ensuring correct crediting of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment B of the *Auction 85 Procedures Public Notice.* The FCC Form 159 can be completed electronically, but must be filed with U.S. Bank via facsimile.

iii. Upfront Payments and Bidding Eligibility

27. The Commission has delegated to the Bureaus the authority and discretion to determine appropriate upfront payment(s) for each auction. Upfront payments help deter frivolous or insincere bidding, and provide the Commission with a source of funds in the event that the bidder incurs liability during the auction.

28. Applicants that are former defaulters must pay upfront payments 50 percent greater than non-former defaulters. For purposes of this calculation, the applicant includes the applicant itself, its affiliates, its controlling interests, and affiliates of its controlling interests, as defined by 47 CFR 1.2110.

29. Applicants must make upfront payments sufficient to obtain bidding eligibility on the construction permits on which they will bid. The Bureaus proposed, in the *Auction 85 Comment Public Notice,* that the amount of the upfront payment would determine a bidder's initial bidding eligibility, the maximum number of bidding units on which a bidder may place bids. Under the Bureaus' proposal, in order to bid on a particular construction permit, a qualified bidder must have a current eligibility level that meets or exceeds the number of bidding units assigned to one or more of the construction permits listed in Attachment A for which it has submitted an engineering proposal. At a minimum, therefore, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the construction permits designated for that applicant in Attachment A or else the applicant will not be eligible to participate in the auction. An applicant does not have to make an upfront payment to cover all construction permits designated for the applicant in Attachment A, but only enough to cover the maximum number of bidding units that are associated with construction permits on which the bidder wishes to place bids and hold provisionally winning bids at any given time.

30. In calculating its upfront payment amount, an applicant should determine the maximum number of bidding units on which it may wish to be active (bid on or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all construction permits on which it seeks to be active in any given round. Applicants should check their calculations carefully, as there is no provision for increasing a bidder's eligibility after the upfront payment deadline.

31. If an applicant is a former defaulter, it must calculate its upfront payment for all construction permits by multiplying the number of bidding units on which they wish to be active by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit. If a former defaulter fails to submit a sufficient upfront payment to establish eligibility to bid on at least one of the construction permits associated with that applicant in Attachment A, the applicant will not be eligible to participate in the auction.

iv. Applicant's Wire Transfer Information for Purposes of Refunds of Upfront Payments

32. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that such requests include all pertinent information listed in the *Auction 85 Procedures Public Notice.* Applicants can provide the information electronically through the FCC Auction System.

D. Auction Registration

33. Approximately ten days before the auction, the Bureaus will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants with timely-submitted short-form applications that are deemed complete and timely upfront payments that are sufficient to make them eligible to bid.

E. Remote Electronic Bidding

34. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. Only qualified bidders are permitted to bid. Each applicant should indicate its bidding preference—electronic or telephonic—on its short-form application. In either case, each authorized bidder must have its own SecurID® token, which the Commission will provide at no charge.

F. Mock Auction—November 3, 2008

35. All qualified bidders will be eligible to participate in a mock auction on Monday, November 3, 2008. The mock auction will enable bidders to become familiar with the FCC Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

IV. Auction Event

36. The first round of bidding for Auction 85 will begin on Wednesday, November 5, 2008. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is to be released approximately 10 days before the start of the auction.

A. Auction Structure

i. Simultaneous Multiple Round Auction

37. In the *Auction 85 Comment Public Notice,* the Bureaus proposed to auction all construction permits in Auction 85 in a single auction using the Commission's standard simultaneous multiple-round (SMR) auction format. This type of auction offers every construction permit for bid at the same time and consists of successive bidding rounds in which eligible bidders may place bids on individual construction permits. A bidder may bid on, and potentially win, any number of construction permits. Typically, bidding remains open on all construction permits until bidding stops on every construction permit. The Bureaus received no comment on this issue.

ii. Eligibility and Activity Rules

38. The Bureaus will use upfront payments to determine the initial (maximum) eligibility (as measured in bidding units) for Auction 85. The amount of the upfront payment submitted by a bidder determines initial bidding eligibility, the maximum number of bidding units on which a bidder may be active. As noted earlier, each construction permit is assigned a specific number of bidding units listed in Attachment A. Bidding units for a given construction permit do not change as prices rise during the auction. A bidder's upfront payment is not attributed to specific construction permits. Rather, a bidder may place bids on any of the construction permits designated for that applicant as long as the total number of bidding units associated with those construction permits does not exceed its current eligibility. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount, an applicant must determine the maximum number of bidding units it may wish to bid on or hold provisionally winning bids on in any single round, and submit an upfront payment amount covering that total number of bidding units. At a minimum, an applicant's upfront payment must cover the bidding units for at least one of the licenses it selected on its short-form application. The total upfront payment does not affect the total dollar amount a bidder may bid on any given construction permit.

39. In order to ensure that an auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. Bidders are required to be active on a specific percentage of their current bidding eligibility during each round of the auction.

40. A bidder's activity level in a round is the sum of the bidding units associated with any construction permits covered by that bidder's new and provisionally winning bids. A bidder is considered active on a construction permit in the current round if it is either the provisionally winning bidder at the end of the previous bidding round or if it submits a bid in the current round.

41. A bidder is required to be active on 100 percent of its current eligibility during each round of the auction. That is, a bidder must either place a bid and/or be the provisionally winning bidder during each round of the auction. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place bids in the auction.

iii. Activity Rule Waivers

42. Each bidder in the auction will be provided with three activity rule waivers. The Bureaus received no comments on this issue.

iv. Auction Stopping Rules

43. For Auction 85, the Bureaus will employ a simultaneous stopping rule approach. A simultaneous stopping rule means that all construction permits remain available for bidding until bidding closes simultaneously on all construction permits. More specifically, bidding will close simultaneously on all construction permits after the first round in which no bidder submits any new bids or applies a proactive waiver.

44. Auction 85 will begin under the simultaneous stopping rule approach, and the Bureaus will retain the discretion to employ the other proposed versions of the stopping rule. Moreover, the Bureaus will retain the discretion to use the modified stopping rule with or without prior announcement during the auction.

v. Auction Delay, Suspension, or Cancellation

45. The Bureaus may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. In such cases, the Bureaus, in their sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureaus to delay or suspend the auction.

B. Bidding Procedures

i. Round Structure

46. The initial schedule of bidding rounds will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction. Each bidding round is followed by the release of round results. Multiple bidding rounds may be conducted in a given day. Details regarding round results formats and locations will also be included in the qualified bidders public notice.

47. The Bureaus have the discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureaus may increase or decrease the amount of time for the bidding rounds, the amount of time between rounds, or the number of rounds per day, depending upon the bidding activity level and other factors.

ii. Reserve Price and Minimum Opening Bids

48. The specific minimum opening bid amounts for each construction permit available in Auction 85 are set forth in Attachment A.

iii. Bid Amounts

49. The Bureaus proposed that in each round, eligible bidders will be able to place a bid on a given construction permit in any of up to nine different amounts. The FCC Auction System interface will list the nine acceptable bid amounts for each construction permit.

iv. Provisionally Winning Bids

50. At the end of each bidding round, a provisionally winning bid will be determined based on the highest bid amount received for each construction permit. A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the same construction permit at the close of a subsequent round. Provisionally winning bids at the end of the auction become the winning bids. Bidders are reminded that provisionally winning bids count toward activity for purposes of the activity rule.

51. The Bureaus will use a random number generator to select a single provisionally winning bid in the event of identical high bid amounts being submitted on a construction permit in a given round (i.e., tied bids).

52. The tied bid with the highest random number wins the tiebreaker, and becomes the provisionally winning bid. Bidders regardless of whether they hold a provisionally winning bid, can submit higher bides in subsequent rounds. However, if the auction were to end with no other bids being placed, the winning bidder would be the one that placed the provisionally winning bid.

53. All bidding will take place remotely either through the FCC Auction System or by telephonic bidding. There will be no on-site bidding during Auction 85. Please note that telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. The length of a call to place a telephonic bid may vary; please allow a minimum of ten minutes.

54. A bidder's ability to bid on specific construction permits is determined by two factors: (1) The construction permits designated for that applicant; and (2) the bidder's eligibility. The bid submission screens will allow bidders to submit bids on only those construction permits designated for that bidder on Attachment A.

55. In each round, eligible bidders will be able to place bids on a given construction permit in any of nine different bid amounts. For each construction permit, the FCC Auction System will list the nine acceptable bid amounts in a drop-down box. Bidders use the drop-down box to select from among the acceptable bid amounts. The FCC Auction System also includes an upload function that allows bidders to upload text files containing bid information.

56. Until a bid has been placed on a construction permit, the minimum acceptable bid amount for that construction permit will be equal to its minimum opening bid amount. Once there are bids on a construction permit, minimum acceptable bids for a construction permit for the following round will be determined.

57. During a round, an eligible bidder may submit bids for as many construction permits as it wishes (providing that it is eligible to bid), remove bids placed in the current bidding round, or permanently reduce eligibility. If a bidder submits multiple bids for the same construction permit in the same round—multiple bids on the exact same construction permit—the system takes the last bid entered as that bidder's bid for the round. Bidders should note that the bidding units associated with construction permits for which the bidder has removed bids do not count towards the bidder's current activity.

v. Bid Removal and Bid Withdrawal

58. Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By removing selected bids in the FCC Auction System, a bidder may effectively unsubmit any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed, i.e., a bid that is removed does not count toward bidding activity. Once a round closes, a bidder may no longer remove a bid.

vi. Round Results

59. Reports reflecting bidders' identities for Auction 85 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

60. Bids placed during a round will not be made public until the conclusion of that round. After a round closes, the Bureaus will compile reports of all bids placed, current provisionally winning bids, new minimum acceptable bid amounts for the following round, whether the construction permit is FCC held, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access.

vii. Auction Announcements

61. The Commission will use auction announcements to announce items such as schedule changes. All auction announcements will be available by clicking a link in the FCC Auction System.

V. Post-Auction Procedures

62. Shortly after bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bidders, and establishing the deadlines for submitting down payments, long-form applications, and final payments, the long-form application (FCC Forms 301–CA or 346).

A. Down Payments

63. Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction 85 to 20 percent of the net amount of its winning bids (gross bids less any applicable new entrant bidding credits).

B. Final Payments

64. Each winning bidder will be required to submit the balance of the net amount of its winning bids within 10 business days after the applicable deadline for submitting down payments.

C. Long-Form Application

65. Within thirty days after the release of the auction closing notice, winning bidders must submit electronically a properly completed long-form application (FCC Forms 301–CA or 346), and required exhibits for each construction permit won through Auction 85. A winning bidder claiming new entrant status must include an exhibit demonstrating its eligibility for the bidding credit. Further filing instructions will be provided to auction winners at the close of the auction.

D. Default and Disqualification

66. Any winning bidder that defaults or is disqualified after the close of the auction (i.e., fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full final payment within the prescribed period of time, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). The payments include both a deficiency payment, equal to the difference between the amount of the bidder's bid and the amount of the winning bid the next time a construction permit covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less.

67. The percentage of the applicable bid to be assessed as an additional payment for defaults in a particular auction is established in advance of the auction. The Bureaus have set the additional default payment for this auction at twenty percent (20%) of the applicable bid.

68. Finally, in the event of a default, the Commission may re-auction the construction permit or offer it to the next highest bidder (in descending order) at its final bid amount. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing authorizations held by the applicant.

E. Refund of Remaining Upfront Payment Balance

69. All applicants that submit upfront payments but after the close of the auction are not winning bidders for a construction permit in Auction 85 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. All refunds will be returned to the payor of record, as identified on the FCC Form 159, unless the payor submits written authorization instructing otherwise.

70. Bidders that drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. Qualified bidders that have exhausted all of their activity rule waivers and have no remaining bidding eligibility may also be eligible for a refund of their upfront payment before the close of the auction.

Federal Communications Commission.

Gary D. Michaels,

Deputy Chief, Auctions and Spectrum Access Division, WTB.

[FR Doc. E8–21350 Filed 9–11–08; 8:45 am]

BILLING CODE 6712–01–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 October 9, 2008.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Tompkins Bancorp, Inc., Avon, Illinois; to acquire 100 percent of the voting shares of Community Bank of Galesburg, Galesburg, Illinois.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Lone Star First Holdings, Inc., Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Kent County State Bank, Jayton, Texas.

Board of Governors of the Federal Reserve System, September 9, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–21300 Filed 9–12–08; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; Interagency Committee on Smoking and Health

Notice of Cancellation: This notice was published in the **Federal Register** on August 15, 2008, Volume 73, Number 159, page 47952. The meeting previously scheduled to convene on September 16, 2008 has been cancelled.

For Further Information Contact: Ms. Monica L. Swann, Management and Program Analyst, Office on Smoking and Health, Centers for Disease Control and Prevention, 4770 Buford Highway, M/S K50, Atlanta, GA 30341; telephone (770) 488–5278, fax (770) 488–5767; E-mail *mswann@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: September 8, 2008.

Elaine L. Baker,

Director, Management Analysis and Service Office, Centers for Disease Control and Prevention.

[FR Doc. E8–21280 Filed 9–11–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10270, CMS–10136, CMS–10268, and CMS–855(A, B, I, R)]

Agency Information Collection Activities: Submission for OMB Review; 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), Department of Health and Human Services, 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 function; (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:* New collection; *Title of Information Collection:* Evaluation of the Home Health Pay for Performance Demonstration: Survey instrument; *Use:* The Home Health Pay for Performance Demonstration is part of a change by CMS toward performance-based purchasing for a variety of provider types. By providing financial incentives for achieving high levels of performance on standardized quality measures, CMS hopes to encourage health care providers to improve the quality of care provided to Medicare beneficiaries. The Home Health Pay for Performance Demonstration (HHP4PD) relies on the voluntary participation by home health agencies within several States, with random assignment of participating agencies to treatment or control groups within each State, where the control group will not be eligible for incentive payments. These two groups form the primary comparison for determining if the HHP4PD was effective in creating improved, targeted outcomes for patients served by home health agencies. The information collected will be used as part of the evaluation of the Home Health Pay for Performance Demonstration sponsored by CMS. *Form Number:* CMS–10270 (OMB# 0938—New); *Frequency:* Once; *Affected Public:* Business or other for-profits and not-for-profit institutions; *Number of Respondents:* 570; *Total Annual Responses:* 570; *Total Annual Hours:* 285.

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Demonstration Ambulatory Care Quality Measure Performance Assessment Tool (''PAT''); *Use:* CMS is requesting an extension of the currently approved tool for the collection of ambulatory care clinical performance measure data. The data will be used to continue implementation of two Congressionally mandated demonstration projects (the Physician Group Practice (PGP) Demonstration and the Medicare Care Management Performance (MCMP) Demonstration) and, starting in 2011, support data collection under the new Electronic Health Records (EHR) Demonstration. Each of these demonstrations, test new payment methods for improving the quality and efficiency of health care services delivered to Medicare fee-for-service beneficiaries, especially those with chronic conditions that account for a disproportionate share of Medicare expenditures. In addition, the MCMP and EHR demonstration specifically encourage the adoption of electronic health records systems as a vehicle for improving how health care is delivered.

The changes in the estimated burden between this submission and the original submission are due to the following changes: Combining the Information Collection Request (ICR) application for the PGP and MCMP demonstrations into a single ICR application. Reduction in the number of practices participating in the MCMP Demonstration. An increase in the estimated cost per hour (salary + fringe) for collecting the data. The implementation of the new EHR Demonstration which will begin collecting clinical quality data starting in 2011 with 400 Phase I practices. *Form Number:* CMS–10136 (OMB# 0938–0941); *Frequency:* Yearly; *Affected Public:* Business or other for-profits and not-for-profit institutions; *Number of Respondents:* 1,060; *Total Annual Responses:* 1,060; *Total Annual Hours:* 25,990.

3. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Consolidated Renal Operations in a Web Enabled Network (CROWNWeb) Third-party Submission Authorization Form; *Use:* The Consolidated Renal Operations in a Web Enabled Network (CROWNWeb) Third-Party Submission Authorization form is to be completed by ''Facility Administrators'' (administrators of CMS-certified dialysis facilities) if they intend to authorize a third party (a business with which the facility is associated, or an independent vendor) to submit data to CMS to comply with the recently-revised Conditions for Coverage of dialysis facilities. The CROWNWeb system is the system used as the collection point of data necessary for entitlement of ESRD patients to Medicare benefits and for Federal Government monitoring and assessing of the quality and types of care provided to renal patients. The information collected through the CWTPSA form will allow CMS and its contractors to receive data from authorized parties acting on behalf of CMS-certified dialysis facilities. CMS anticipates that roughly 3,000 signed forms will be received by February 2009, and that the total number of forms may reach 5,100 by February 2012. *Form Number:* CMS–10266 (OMB# 0938—New); *Frequency:* Monthly; *Affected Public:* Business or other for-profits and not-for-profit institutions; *Number of Respondents:* 5,100; *Total Annual Responses:* 5,100; *Total Annual Hours:* 425.

4. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Enrollment Application; *Form Number:* CMS–855 (A, B, I, R) (OMB#: 0938–0685); *Use:* The primary function of the Medicare enrollment application is to gather information from a provider or supplier that tells us who it is, whether it meets certain qualifications to be a health care provider or supplier, where it practices or renders its services, the identity of the owners of the enrolling entity, and information necessary to establish correct claims payments. We are revising this currently approved information collection. The goal of the revisions to this information collection request (ICR) is to adjust the burden associated with this ICR to account for the removal of the CMS–855(S) application. *Frequency:* Recordkeeping

and Reporting—On occasion; *Affected Public:* Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 400,000; *Total Annual Responses:* 400,000; *Total Annual Hours:* 785,702.

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.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on October 14, 2008. OMB Human Resources and Housing Branch, Attention: OMB Desk Officer, New Executive Office Building, Room 10235, Washington, DC 20503, Fax Number: (202) 395–6974.

Dated: September 5, 2008.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E8–21157 Filed 9–10–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10156, CMS–9042 and CMS–29/30]

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:* Retiree Drug Subsidy (RDS) Applications and Instructions; *Use:* Under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and implementing regulations at 42 CFR Part 423 Subpart R, Plan Sponsors (e.g., employers or unions) who offer prescription drug coverage to their qualified covered retirees are eligible to receive a 28% tax-free subsidy for allowable drug costs. Plan Sponsors must submit a complete application to CMS in order to be considered for the RDS Program. *Form Number:* CMS–10165 (OMB# 0938–0957); *Frequency:* Yearly; *Affected Public:* Business or other for-profits and not-for-profit institutions, and State, Local, or Tribal Governments; *Number of Respondents:* 4,500; *Total Annual Responses:* 4,500; *Total Annual Hours:* 288,000.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Accelerated Payments and supporting regulations 42 CFR, Section 412.116(f), 412.632(e), 413.64(g), 413.350(d), and 484.245; *Use:* Section 1815(a) of the Social Security Act describes payment to providers of services. When a delay in Medicare payment by a fiscal intermediary for covered services causes financial difficulties for a provider, the provider may request an accelerated payment. An accelerated payment also may be made in highly exceptional situations where a provider has incurred a temporary delay in its bill processing beyond the provider's normal billing cycle. Accelerated payments are limited to providers that are not receiving periodic interim payments. Form CMS–9042 is used by fiscal intermediaries to assess a provider's eligibility for accelerated payments. *Form Number:* CMS–9042 (OMB# 0938–0269); *Frequency:* Yearly; *Affected Public:* Business or other for-profits and not-for-profit institutions; *Number of Respondents:* 880; *Total Annual Responses:* 880; *Total Annual Hours:* 440.

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Request for Certification as Rural Health Clinic (RHC) and RHC Survey Report Form and Supporting Regulations in 42 CFR 491.1–491.11; *Use:* The CMS–29 is utilized as an application to be completed by suppliers of RHC services requesting participation in the Medicare/Medicaid programs. This form initiates the process of obtaining a decision as to whether the conditions for certification are met as a supplier of RHC services. It also promotes data reduction or introduction to and retrieval from the Automated Survey Process Environment (ASPEN) and related survey and certification databases by the CMS Regional Offices. *Form Number:* CMS–29/30 (OMB# 0938–0074); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 766; *Total Annual Responses:* 766; *Total Annual Hours:* 192.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site 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 November 12, 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.

Date: September 5, 2008.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E8–21159 Filed 9–11–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request; Proposed Projects

Title: Survey of State Implementation of Public Law 109–239, The Safe and Timely Interstate Placement of Foster Children Act of 2006.

OMB No.: New collection.

Description: The Safe and Timely Interstate Placement of Foster Children Act, effective October 1, 2006, encourages States to improve protections for children and holds States accountable for the safe and timely placement of children across State lines. The purpose of this brief survey is to document how States have implemented the home study provisions of the law, to identify problems in following the requirements, and to discover the solutions that have been developed to address such problems. The results of the survey will be used to prepare a Report to Congress, as mandated by the law.

Respondents: States, the District of Columbia, and Puerto Rico.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Survey	52	1	2	104
Estimated Total Annual Burden Hours				104

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: September 8, 2008.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E8–21129 Filed 9–11–08; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0129]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Food Canning Establishment Registration, Process Filing, and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Food Canning Establishment Registration, Process Filing, and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Information Management (HFA–710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–796–3794.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 3, 2008 (73 FR 31694), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0037. The approval expires on August 31, 2011. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain*.

Dated: September 8, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–21353 Filed 9–11–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0488]

Medical Devices: Ophthalmic Devices; Laser-Assisted *In Situ* Keratomileusis (LASIK) Devices; Establishing a Docket

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the opening of a public docket to receive information and comments on laser-assisted *in situ* keratomileusis (LASIK). We are opening the docket to gather additional information from interested persons on the post market experience associated with the use of LASIK devices.

DATES: Submit written or electronic information and comments by September 14, 2009.

ADDRESSES: Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug

Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments or information to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Domini Cassis, Center for Devices and Radiological Health (HFZ–215), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 240–276–2342, e-mail: *domini.cassis@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 24, 2008 (73 FR 15530), FDA published a notice of a meeting for the Ophthalmic Devices Panel of the Medical Devices Advisory Committee (the panel). At the meeting on April 25, 2008, the panel was asked to consider general issues concerning the post market experience with laser-assisted *in situ* keratomileusis (LASIK) procedures. Interested persons were invited to present data, information, or views, orally or in writing, to the panel regarding these topics. At the conclusion of the meeting, FDA requested that interested persons provide input on LASIK, including comments regarding tools the agency uses to improve patient safety, such as patient labeling, information on FDA's LASIK Web site, and other outreach initiatives.

Using information gathered at the April 25, 2008, panel meeting, the agency has updated information contained on its LASIK Web site, has strengthened its post market surveillance activities, and is now seeking ways to better understand quality of life issues following LASIK procedures that may relate to safety and effectiveness of LASIK devices. At this time, the agency is interested in receiving public comments regarding the post market experience associated with the use of LASIK, as well as information regarding potential barriers that may exist in providing the agency with feedback regarding LASIK procedures. Information and comments submitted to the docket will assist us in identifying ways in which we can improve our public outreach efforts regarding the safety and effectiveness of LASIK devices.

II. Submission of Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. All comments submitted to the public docket are public information and may be posted to the FDA's Web site at *http://www.fda.gov* for public viewing. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Please note that on January 15, 2008, the FDA Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic submissions will be accepted by FDA only through the FDMS at *http://www.regulations.gov*.

Dated: September 8, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–21339 Filed 9–11–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0474]

Ecamsule Eligibility for Inclusion in Monograph; Over-the-Counter Sunscreen Drug Products for Human Use; Request for Safety and Effectiveness Data

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of eligibility; request for data and information.

SUMMARY: The Food and Drug Administration is announcing a call-for-data for safety and effectiveness information on the following condition as part of FDA's ongoing review of over-the-counter (OTC) drug products: Ecamsule (terephthalylidene dicamphor sulfonic acid), in concentrations of up to 10 percent, as a sunscreen single active ingredient and in combination with other sunscreen active ingredients that are generally recognized as safe and effective (GRASE) and are found in the sunscreen monograph regulations. FDA reviewed a time and extent application (TEA) for ecamsule and determined that it is eligible for consideration in our OTC drug monograph system. FDA will evaluate the submitted data and information to determine whether ecamsule can be generally recognized as safe and effective (GRASE) for its proposed OTC use.

DATES: Submit data, information, and general comments by December 11, 2008.

ADDRESSES: You may submit comments, identified by docket number FDA–2008–N–0474, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier (For paper, disk, or CD–ROM submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, we are no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal, as described previously, in the **ADDRESSES** portion of this document under *Electronic Submissions*.

Instructions: All submissions received must include the agency name and Docket No(s). and Regulatory Information Number (RIN) (if a RIN number has been assigned) for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number(s), found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Michael L. Chasey, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, MS 5411, Silver Spring, MD 20993, 301–796–2090.

SUPPLEMENTARY INFORMATION:

I. Eligibility of Ecamsule

In September 2007, FDA received a TEA (Ref. 1) requesting that ecamsule be eligible for review under our OTC sunscreen drug monograph (part 352 (21 CFR part 352)). After reviewing the TEA, the agency believes that it

includes adequate data demonstrating that ecamsule has been marketed for a material time and to a material extent as required by § 330.14 (21 CFR 330.14) (Ref. 2). Ecamsule-containing sunscreen products have been marketed directly to consumers for over 5 continuous years in 48 countries, with an estimated 472 million dosage units marketed in 55 countries. Therefore, ecamsule, in concentrations of up to 10 percent, is eligible for inclusion in the OTC sunscreen drug monograph as a single active ingredient and in combination with GRASE sunscreen active ingredients found in § 352.10.

II. Request for Data and Information

FDA invites all interested persons to submit data and information on the safety and effectiveness of this single active ingredient in order for us to determine whether it is GRASE and not misbranded under recommended conditions of OTC use (see § 330.14(f)). FDA is also seeking data to establish the safety and effectiveness of ecamsule for use as a sunscreen active ingredient when combined with GRASE sunscreen active ingredients found in § 352.10. The effectiveness data should include studies conducted according to the testing procedures in the sunscreen monograph (i.e., part 352, subpart D). Such data for combinations should meet both criteria described in the sunscreen monograph (§ 352.20):

- The ingredient contributes a Sun Protection Factor (SPF) of at least 2 to the final formulation;
- The SPF of the final formulation equals at least two times the number of active ingredients

The safety data should include animal and human studies that meet current scientific standards (see § 330.14(f)(1) and 21 CFR 330.10(a)(2)).

III. Marketing Policy

Under § 330.14(h), any product containing the condition for which data and information are requested may not be marketed as an OTC drug in the United States at this time unless it is the subject of an approved new drug application or abbreviated new drug application.

IV. References

The following references are on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. TEA for Ecamsule (Terephthalylidene Dicamphor Sulfonic Acid) Submitted by L'Oreal USA Products, Inc., dated September 18, 2007.

2. FDA's evaluation of the TEA for ecamsule.

Dated: September 4, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–21291 Filed 9–11–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Proposed Collection; Comment Request; Health Behaviors in School-Age Children

SUMMARY: 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 National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: Health Behaviors in School-Age Children—United States.

Type of Information Collection Request: Extension OMB control number 0925–0557, expiration date 01/31/09.

Need and Use of Information Collection: The goal of this research is to obtain data from a survey of adolescent health behavior conducted in the United States with a national probability sample of adolescents. This information will enable the improvement of health services and programs for youth. The study should provide needed information about adolescents nationally and will also enable international comparisons.

This U.S. survey is linked to the broader Health Behaviors in School-Age Children (HBSC) study, in which surveys are conducted every four years among nationally representative samples of students at ages 11, 13, and 15 years of age in about 40 countries. The HBSC was conducted in the U.S. previously in 1997/1998, 2001/2002 and 2005/2006. Previous HBSC–U.S. surveys showed that U.S. 15-year-old youth are less likely to smoke than students in most other countries surveyed, even though 11-year-old U.S. students experiment with tobacco at higher rates than youth in other countries. The most recent survey demonstrated that U.S. youth are more likely to be overweight and obese than students in the other HBSC countries and more likely to be dieting to lose weight. U.S. eating habits were also shown to be somewhat less healthful than in other countries, with a comparatively high proportion of youth consuming sugar-sweetened soft drinks and among the lowest proportions of youth eating breakfast. The 2009/2010 U.S. survey will address a sample of health-related factors according to rigorous research protocols developed by the HBSC. The international HBSC survey requires at least 1,536 youth in each age group (ages 11, 13, and 15) and a total of 5,000 students. In the U.S., a nationally representative sample of children in grades 6 through 10 will be surveyed and minority children will be over-sampled to permit comparisons across under-represented populations. The children will be students from approximately 420 schools; in order to assess health programs in those schools and how the school environment supports health behaviors, a school administrator and the lead health education teacher from each school will be surveyed.

Affected Public: School-age children.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Adolescents	14,672	1	0.75	11,004
School Administrators	386	1	0.33	127

The estimated annualized cost to respondents is $5,392. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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; (3) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Ronald Iannotti, Prevention Research Branch, Division of Epidemiology, Statistics, and Prevention Research, Eunice Kennedy Shriver National Institute of Child Health and Human Development, Building 6100, 7B05, 9000 Rockville Pike, Bethesda, Maryland, 20892–7510, or call non-toll free number (301) 435–6951 or E-mail your request, including your address to *ri25j@nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: September 3, 2008.

Paul L. Johnson,

Project Clearance Liaison, NICHD, National Institutes of Health.

[FR Doc. E8–21327 Filed 9–11–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cellular Signaling and Regulatory Systems Study Section, October 2, 2008, 8 a.m. to October 3, 2008, 5 p.m., Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007 which was published in the **Federal Register** on August 18, 2008, 73 FR 48219–48220.

The meeting will be held one day only October 2, 2008. The meeting time and location remain the same. The meeting is closed to the public.

Dated: September 3, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–21036 Filed 9–11–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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 paten table 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: Immunology Integrated Review Group, Hypersensitivity, Autoimmune, and Immune-mediated Diseases, Study Section.

Date: October 2–3, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.

Contact Person: Bahiru Gametchu, DVM, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1225, *gametchb@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated, Review Group Clinical Neuroplasticity and Neurotransmitters Study Section.

Date: October 2–3, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications

Place: Holiday Inn, San Franscisco-Fisherman's Wharf, 1300 Columbus Avenue, San Francisco, CA 94133.

Contact Person: Suzan Nadi, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301–435–1259, *nadis@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical Neuroscience and Neurodegeneration.

Date: October 6, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree Hotel Washington, DC, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: Seetha Bhagavan, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 435–1121, *bhagavas@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group Acute Neural Injury and Epilepsy Study Section.

Date: October 6–7, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Adagio, 550 Geary Street, San Francisco, CA 94102.

Contact Person: Seetha Bhagavan, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 435–1121, *bhagavas@csr.nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group Instrumentation and Systems Development Study Section.

Date: October 8, 2008.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Carlyle Suites, 1731 New Hampshire Avenue, NW., Washington, DC 20009.

Contact Person: Marc Rigas, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7849, Bethesda, MD 20892, 301–402–1074, *rigasm@mail.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group Skeletal Muscle and Exercise Physiology Study Section.

Date: October 9, 2008.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Willam F. Bolger Center, 9600 Newbridge Drive, Main, Potomac, MD 20854.

Contact Person: Richard J. Bartlett, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, 301–435–6809, *bartletr@csr.nih.gov*.

Name of Committee: Oncological Sciences Integrated Review Group, Drug Discovery and Molecular Pharmacology Study Section.

Date: October 13–14, 2008.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Hungyi Shau, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214,

MSC 7804, Bethesda, MD 20892, 301–435–1720, *shauhung@csr.nih.gov*.

Name of Committee: Oncological Sciences Integrated Review Group, Cancer Immunopathology and Immunotherapy Study Section.

Date: October 13–14, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Denise R. Shaw, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892, 301–435–0198, *shawdeni@csr.nih.gov*.

Name of Committee: Oncological Sciences Integrated Review Group, Tumor Cell Biology Study Section.

Date: October 13–14, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Angela Y. Ng, PhD., MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, (For courier delivery, use MD 20817), Bethesda, MD 20892, 301–435–1715, *nga@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Gene Therapy and Inborn Errors.

Date: October 13, 2008.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Brookshire Suites, 120 E. Lombard Street, Baltimore, MD 21202.

Contact Person: Richard Panniers, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1741, *pannierr@csr.nih.gov.*

Name of Committee: Respiratory Sciences Integrated Review Group, Respiratory Integrative Biology and Translational Research Study Section.

Date: October 14, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Allerton Hotel, 701 N. Michigan Avenue, Chicago, IL 60611.

Contact Person: Everett E. Sinnett, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1016, *sinnett@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel. Retinopathy Studies.

Date: October 14, 2008.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.

Contact Person: Raya Mandler, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217, MSC 7840, Bethesda, MD 20892, 301–402–8228, *rayam@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group, Biology and Diseases of the Posterior Eye Study Section.

Date: October 14–15, 2008.

Time: 8 a.m. to 5:30 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: Michael H. Chaitin, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group, Cardiac Contractility, Hypertrophy, and Failure Study Section.

Date: October 14–15, 2008, Time: 8 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: The Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Olga A. Tjurmina, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4030B, MSC 7814, Bethesda, MD 20892, (301) 451–1375, *ot3d@nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group, Molecular Genetics C Study Section.

Date: October 14–15, 2008.

Time: 8 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: State Plaza Hotel, 2117 E Street, NW., Washington, DC 20037.

Contact Person: Barbara Whitmarsh, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892, 301/435–4511, *whitmarshb@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group Vascular, Cell and Molecular Biology Study Section.

Date: October 14–15, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Marina del Rey, 4100 Admiralty Way, Marina del Rey, CA 90292.

Contact Person: Anshumali Chaudhari, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nihgov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group Atherosclerosis and Inflammation of the Cardiovascular System Study Section.

Date: October 14–15, 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: 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: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Molecular and Cellular Endocrinology Study Section.

Date: October 14, 2008.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Syed M. Amir, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6172, MSC 7892, Bethesda, MD 20892, 301–435–1043, *amirs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Viral Pathogens: Structure and Function.

Date: October 14, 2008.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Liangbiao Zheng, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–402–5671, *zhengli@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Cell Death and Neurodegeneration.

Date: October 14–15, 2008.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Alexander Yakovlev, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892, 301–435–1254, *yakovleva@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, BMIT/MEDI Member Conflict—Imaging.

Date: October 15–16, 2008.

Time: 7 a.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: Khalid Masood, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, 301–435–2392, *masoodk@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics, Integrated Review Group Synthetic and Biological Chemistry A Study Section.

Date: October 15–16, 2008.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Mike Radtke, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, 301–435–1728, *radtkem@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Synthetic and Biological Chemistry A Special Emphasis Panel.
Date: October 15–16, 2008.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: John L. Bowers, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4170, MSC 7806, Bethesda, MD 20892, (301) 435–1725, *bowersj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Myopia and Vision Technology.
Date: October 15, 2008.
Time: 8 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: Jerry L. Taylor, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, 301–435–1175, *taylorje@csr.nih.gov.*

Name of Committee: Health of the Population Integrated Review Group, Nursing Science: Children and Families Study Section.
Date: October 15, 2008.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Melinda Tinkle, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, MSC 7770, Bethesda, MD 20892, (301) 594–6594, *tinklem@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Brain Disorders and Clinical Neuroscience.
Date: October 15, 2008.
Time: 11 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Boris P. Sokolov, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockedge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–435–1197, *bsokolov@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 3, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–21366 Filed 9–11–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review R13s, F31s, R03.
Date: October 15, 2008.
Time: 11:30 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, El Tropicano Riverwalk, 110 Lexington Avenue, San Antonio, TX 78205.
Contact Person: Mary Kelly, Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, NIH 6701 Democracy Blvd, Room 672, MSC 4878, Bethesda, MD 20892–4878, 301–594–4809, *mary_kelly@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 4, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–21037 Filed 9–11–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Partnerships for Point of Care (POC) Diagnostic Technologies for Nontraditional Health Care Settings.
Date: October 6, 2008.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.
Contact Person: Lynn Rust, PhD., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–402–3938, *lr228v@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 4, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–21039 Filed 9–11–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, NIMH COR Honors Undergraduate Research Training.

Date: October 6, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: David M. Armstrong, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center/Room 6138/MSC 9608, 6001 Executive Boulevard, Bethesda, MD 20892–9608, 301–443–3534, *armstrda@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: September 5, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–21173 Filed 9–11–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Security of Aircraft and Safety of Passengers Departing From Airports From Venezuela to the United States

AGENCY: Department of Homeland Security.

ACTION: Notice.

SUMMARY: This document informs the public that the Department of Homeland Security (DHS) is unable to determine whether international airports in Venezuela that serve as the last point of departure for non-stop flights to the United States maintain and carry out effective aviation security measures. Since the Government of Venezuela has refused multiple requests to allow assessments of its airports by the Transportation Security Administration (TSA), DHS can no longer verify the security of its airports. As authorized by statute, DHS is directing all U.S. and foreign air carriers (and their agents) providing service between the United States and Venezuelan airports, to provide notice to any passenger purchasing a ticket for transportation between the United States and these airports that DHS is unable to determine whether such airports maintain and carry out effective security measures. DHS is also requiring that similar notices be posted at U.S. airports.

FOR FURTHER INFORMATION CONTACT: Richard Stein, Office of Global Strategies, International Operations, TSA–38, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220, telephone: (571) 227–3239, e-mail: *Richard.Stein@dhs.gov*.

Notice

Pursuant to 49 U.S.C. 44907(a), the Secretary of Homeland Security (the Secretary) is required to assess periodically the effectiveness of the security measures maintained by foreign airports that are served by U.S carriers, from which foreign air carriers serve the United States, that may pose a ''high risk of introducing danger to international air travel,'' or other airports deemed appropriate by the Secretary. If the Secretary determines that a foreign airport does not maintain and carry out effective security measures, the Secretary is required to ''notify the appropriate authorities of the government of the foreign country of the decision and recommend the steps necessary to bring the security measures up to a standard used in making the assessment.'' 49 U.S.C. 44907(c).

Further, the Secretary must: (a) Publish the identity of the foreign airport in the **Federal Register**, (b) post the identity of such airport at all U.S. airports that regularly provide scheduled air carrier operations, and (c) notify the news media of the identity of the airport. 49 U.S.C. 44907(d). In addition, the statute requires all air carriers providing service between the United States and the airport to provide written notice of the determination, either on or with the ticket, to all passengers purchasing transportation between the United States and the airport. 49 U.S.C. 44907(d)(1)(B).

On August 8, 2008, the Secretary notified the Government of Venezuela that DHS could not determine whether Venezuelan airports that serve as the last point of departure for non-stop flights to the United States maintain and carry out effective security measures. This notification was made because the Government of Venezuela has not permitted the Transportation Security Administration (TSA) to conduct assessments of the security measures maintained and carried out at these airports, using the security standards and appropriate recommended practices established by the International Civil Aviation Organization (ICAO) as the basis for analysis.

The Department of Homeland Security (DHS) is issuing this document pursuant to 49 U.S.C. 114, to inform the public that DHS is unable to determine whether such airports maintain and carry out effective security measures. DHS directs that all U.S. airports with regularly scheduled air carrier operations prominently post a notice displaying this information. Further, DHS is notifying the news media of this decision to provide public notification. In addition, DHS is requiring that each U.S. and foreign air carrier (and their agents) providing transportation between the United States and these Venezuelan airports provide notice of this information to each passenger buying a ticket for transportation between the United States and these airports, with such notice to be made by written material included on or with such ticket.

Issued in Washington, DC, on September 8, 2008.

Michael Chertoff,

Secretary.

[FR Doc. E8–21224 Filed 9–11–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2457–08; DHS Docket No. USCIS–2008–0036]

RIN 1615–ZA74

Revision to Direct Mail Program for Submitting Form N–400, Application for Naturalization

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notice.

SUMMARY: U.S. Citizenship and Immigration Services (USCIS) is revising its Direct Mail Program so that certain filings of Form N–400, Application for Naturalization, will now be filed at a designated lockbox facility instead of a USCIS Service Center. However, if you are the spouse of an active member of the Armed Forces, this notice instructs you now to file your Form N–400 at the Nebraska Service Center (NSC), whether you are filing from within the U.S. or abroad. This

notice does not change the filing location for Forms N–400 filed by active members or certain veterans of the Armed Forces who are eligible to apply for naturalization under sections 328 or 329 of the Immigration and Nationality Act (the Act).

DATES: This notice becomes effective October 14, 2008.

FOR FURTHER INFORMATION CONTACT: Kathleen Stanley, Chief, Lockbox Operations Division, Office of the Chief Financial Officer, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., 4th Floor, Washington, DC 20529, Telephone (202) 233–2385.

SUPPLEMENTARY INFORMATION:

Background

What Is the Direct Mail Program?

The Direct Mail Program allows USCIS to standardize and more efficiently process applications by eliminating duplicative work, maximizing staff productivity, and introducing better information management tools. The purpose and strategy of the Direct Mail Program has been discussed in detail in previous rulemaking and notices. (See 59 FR 33903, 59 FR 33985, 60 FR 22408, 61 FR 2266, 61 FR 56060, 62 FR 16607, 63 FR 891, 63 FR 892, 63 FR 13434, 63 FR 13878, 63 FR 16828, 63 FR 50584, 63 FR 8688, 63 FR 8689, 64 FR 67323, 69 FR 3380, 69 FR 4210, 70 FR 30768, 72 FR 3402, and 73 FR 50336.)

Explanation of Changes

Will this notice change my eligibility for naturalization?

No. This notice only affects the filing instructions where certain Form N–400s must be mailed. Some Form N–400s that were previously filed at USCIS Service Centers must now be sent to a designated lockbox facility. Please note that active members and certain veterans of the Armed Forces, as well as spouses of active members of the Armed Forces, have separate filing instructions. Filing changes will be discussed in detail in the following charts.

Where should I send my Form N–400 and all supporting documentation?

Please refer to the following charts as to where to file your Form N–400:

ARMED FORCES APPLICANTS (VETERANS & ACTIVE MEMBERS) & SPOUSES OF ACTIVE MEMBERS OF THE ARMED FORCES

If . . .	Then mail to . . .
You are a veteran or an active member of the Armed Forces and are eligible to apply for naturalization under section 328 or 329 of the Act; or You are the spouse of an active member of the Armed Forces	Nebraska Service Center, P.O. Box 87426, Lincoln, NE 68501–7426. *Private Courier (non-USPS) Deliveries:* Nebraska Service Center, 850 S Street, Lincoln, NE 68508.

NON-ARMED FORCES APPLICANTS

If . . .	Then mail to . . .
You reside in: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming, Territory of Guam, Northern Mariana Islands.	*USCIS Lockbox Facility,* USCIS, P.O. Box 21251, Phoenix, AZ 85036. *Private Courier (non-USPS) Deliveries:* USCIS, Attn: N400, 1820 E Skyharbor Circle S. Floor 1, Phoenix, AZ 85036.
You reside in: Alabama, Arkansas, Connecticut, Delaware, DC, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, U.S. Virgin Islands.	*USCIS Lockbox Facility,* USCIS, P.O. Box 299026, Lewisville, TX 75029. *Private Courier (non-USPS) Deliveries:* USCIS, Attn: N400, 2501 S. State Hwy 121, Bldg. #4, Lewisville, TX 75067.

What happens if I file a Form N–400 covered by this notice at the wrong location?

For the first 30 days after this notice takes effect, USCIS will forward any improperly addressed Form N–400s covered by this notice to the proper lockbox address. Any applications forwarded within this time period will be considered properly filed when receipted at the Lockbox.

After this 30-day transition period, any Form N–400 covered by this notice that is received at a location other than the appropriate lockbox address will be returned to you with an explanation directing you to mail it to the appropriate lockbox address.

Is USCIS amending the Form N–400 Instructions?

USCIS is currently amending instructions and information listed on our Web site (*http://www.uscis.gov*) to reflect the new filing addresses and process change information. For example, inserting the requirement for passport style photos and providing clarification of the grounds for rejection of an application.

Where may I find information related to eligibility requirements for naturalization?

You may find general eligibility requirements for naturalization at our Web site: *http://www.uscis.gov.* You may also download ''A Guide to Naturalization (Form M–476),'' which provides information on the benefits and responsibilities of citizenship, an overview of the naturalization process, and eligibility requirements.

Paperwork Reduction Act

USCIS is amending the instructions to the Form N–400. Accordingly, USCIS has submitted an information collection request to Office of Management and Budget in accordance with the Paperwork Reduction Act. The instruction changes will not impose any new reporting or record-keeping requirements. The OMB control number for this collection is contained in 8 CFR 299.5, Display of control numbers.

Dated: August 28, 2008.

Jonathan R. Scharfen,

Acting Director, U.S. Citizenship and Immigration Services.

[FR Doc. E8–21083 Filed 9–11–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5186–N–37]

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: August 12, 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: September 4, 2008.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E8–21002 Filed 9–10–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5261–N–01]

Notice of Reclassification of Four Investigative Field Offices to Regional Offices: Cleveland, OH; Baltimore, MD; Tampa, FL; and Seattle, WA

AGENCY: Office of Inspector General, Department of Housing and Urban Development (HUD/OIG).

ACTION: Notice of reclassification of field offices of investigation as regional offices of investigation.

SUMMARY: This notice advises the public that the HUD/OIG Office of Investigation plans to reclassify its Cleveland; Baltimore; Tampa; and Seattle field offices as regional offices. The planned reclassification is intended to: (1) Improve the alignment of limited investigative resources, to promote more efficient responses to HUD or Congressional requests involving critical program issues; (2) redeploy resources to prevent and detect fraud in new program delivery of CPD and FHA; and (3) improve management control and effectiveness, and reduce travel costs of management by reducing region size.

The HUD/OIG Office of Audit, to the extent that it maintains field offices in these locations, has determined that based upon the different nature of its responsibilities it does not need to reorganize. This notice also includes a cost-benefit analysis supporting the reclassification of the four field offices.

FOR FURTHER INFORMATION CONTACT: John McCarty, Assistant Inspector General for Investigations, Room 8274, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410–4500, 202–708–0390 (This is not a toll free number.) A telecommunication device for hearing and speech-impaired persons (TTY) is available at 800–877–8339 (Federal Information Relay Services). (This is a toll free number).

SUPPLEMENTARY INFORMATION: Section 7(p) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(p)) provides that a plan for reorganization, of any regional, area, insuring, or other field office of the Department of Housing and Urban Development may take effect only upon the expiration of 90 days after the publication in the **Federal Register** of a cost-benefit analysis of the effect of the plan on the office involved. The required cost-benefit analysis must include: (1) An estimate of cost savings anticipated; (2) an estimate of the additional cost which will result from the reorganization; (3) a discussion of the impact on the local economy; and (4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services.

Legislative history pertaining to section 7(p) indicates that not all reorganizations are subject to the requirements of section 7(p). Congress stated that ''[t]his amendment is not intended to [apply] to or restrict the internal operations or organization of the Department (such as the establishment of new or combination of existing organization units within a field office, the duty stationing of employees in various locations to provide on-site service, or the establishment or closing, based on workload, of small, informal offices such as valuation stations).'' (*See* House Conference Report No. 95–1792, October 14, 1978 at 58.) Although HUD/OIG believes that the legislative history of section 7(p) strongly suggests that the legislation is inapplicable to a reclassification of four field offices that will in no way reduce the level of services provided to areas served by such offices, HUD/OIG nonetheless voluntarily publishes the following the cost-benefit analysis of its plan.

Cost-Benefit Analysis

A. Background

Since 2002, HUD/OIG staffing has declined from a high of 750 full time equivalents (FTEs) to a current level of 650 FTEs. Simultaneous with this constriction of staff resources, HUD/OIG has had to contend with additional, extraordinary responsibilities associated with the September 11, 2001, terrorist attacks and the 2005 natural disasters along the Gulf Coast. The staff reductions and unforeseen additional responsibilities have caused HUD/OIG Office of Investigation to struggle to address baseline fraud, waste, and abuse in HUD programs. To more efficiently and effectively address HUD/OIG's core mission and at the same time become better prepared to respond to inevitable but unpredictable events, HUD/OIG plans to reclassify four field offices to regional office status at the close of the 90-day period following the publication of this notice.

B. Description of Proposed Changes

At the expiration of 90 days following the publication of this notice, the HUD/OIG Office of Investigation will reclassify its Cleveland, Ohio; Baltimore, Maryland; Tampa, Florida; and Seattle, Washington field offices as regional offices. The Cleveland Regional

Office will supervise the operations of the existing Cleveland, Columbus, and Detroit Field Offices. The Baltimore Regional Office will supervise the operations of the Washington, Baltimore, Richmond, Virginia, and Greensboro, North Carolina Field Offices. The Seattle Regional Office will supervise the operations of the Seattle, San Francisco, Billings, Montana, and Sacramento, California Field Offices. The Tampa Regional Office will supervise the operations of the Tampa, Miami, Jacksonville, Florida and San Juan, Puerto Rico Field Offices. Additionally, as part of this reclassification, the New York, New York Regional Office will no longer supervise the operations of the Newark, New Jersey Field Office; rather, henceforth the Philadelphia, Pennsylvania Regional Office will supervise the operations of the Newark Field Office. All other existing regional and field office jurisdictional boundaries will be unchanged, and the HUD/OIG Office of Audit will not participate in this reclassification. Additionally, the Office of Investigation's headquarters organization will not be affected by this realignment.

Like all HUD/OIG Office of Investigation regional offices, each of the four new regional offices will be managed by a GS–15 1811 Special Agent-in-Charge (SAC). HUD/OIG additionally plans to supplement the management of each of the new regional offices with a GS–14 1811 Assistant Special Agent-in-Charge (ASAC); currently, at least one ASAC is stationed in the Baltimore, Tampa, and Cleveland Field Offices.

C. Costs versus Benefits

1. One-Time Costs

(a) *Personnel relocation costs ($500,000).* It is prudent to plan for potential relocations that may become necessary to fill vacancies and/or back filling of positions. Accordingly, HUD/OIG's plan contemplates that up to four relocations may be necessary as a result of selections of SAC/ASACs to manage the new regions.

(b) *Severance or unemployment compensation costs ($0).* No severance costs are associated with this initiative as it does not contemplate the termination of any staff.

(c) *Purchase/movement of furniture and equipment ($0).* Each of the field offices that are being evaluated for reclassification to regional office status already exist and are fully equipped. Additionally, the proposal does not contemplate the creation of new field offices or an increase in overall FTEs. Thus, no purchase or movement of furniture or equipment is involved.

(d) *Space alteration costs (de minimus).* Some offices may require space alterations and telephone changes to accommodate any future changes of assigned staff. However, HUD/OIG estimates that any space alteration costs that result will be minimal because HUD/OIG has implemented and encourages teleworking, and hoteling is an option available to HUD/OIG.

No additional or supplemental funding is expected to the current appropriated budget. All costs will be maintained within the current budget.

2. Permanent Increases in Operating Costs

Cost to realign current FTEs ($30,000): The reclassification of the four field offices to regional offices will require the creation of four SAC positions at the GS–15 level. It is reasonable to presume that existing ASACs will compete for these positions, and, thus, the likelihood is that the additional cost involved will be limited to the pay differential between GS–14 and GS–15 pay levels. Moreover, in light of Law Enforcement Availability Pay (LEAP) differentials payable to ASACs and SACs, combined with the curtailing effect that the overall GS–15 step 10 salary cap has on LEAP differentials payable to GS–15 SACs, it is believed that costs associated with the creation of the SAC positions will be negligible, if anything. Likewise, it is reasonable to presume that existing GS–13s will compete for ASAC, and, thus, the additional cost involved will be limited to the pay differential between GS–13 and GS–14 pay levels. HUD/OIG estimates that this differential to be approximately $30,000 annually.

No additional or supplemental funding is expected. All additional costs will be funded within the ordinary budgets.

3. Dollar Savings Resulting From Elevation of Offices

Management travel costs: A necessary incident to the remote of field offices is travel costs for supervisors to travel to the office to supervise/review staff and to liaison with stakeholders. HUD/OIG believes that contracting the geographic footprint of his regions—as is contemplated by this plan—will correspondingly reduce management travel. However, in light of the current volatile nature of energy and transportation cost, HUD/OIG is unable accurately quantify such savings.

D. Impact on Local Economies

The planned reclassification of four field offices is not expected to have any impact on the local economies of Cleveland, Baltimore, Tampa, or Seattle. The plan does not involve terminating existing real estate leases prior to their expiration date, nor does it involve leasing addition real estate. Moreover, the plan does not contemplate appreciable relocation of staff to these large metropolitan areas. Thus, any impact on the local economies in terms of housing, schools, public services, taxes, employment, and traffic congestion will be insignificant.

E. Effect of the Reclassifications on the Availability, Accessibility, and Quality of Services Provided for Recipients of Those Services

The plan was designed to improve the quality and level of service provided to stakeholders and affected clients nationwide. The new regions will receive greater management emphasis than prior to the reclassification. Management in the new regions—because it will be less dispersed and remote—will be enabled to interact with HUD management and clients and law enforcement partners more frequently and in greater scope than is now possible. More interaction and attention translates into more availability and accessibility of higher quality services. Similarly, the footprints of HUD/OIG's existing regions will shrink, and the incumbent SACs will be empowered to redirect attention that they currently devote to Cleveland, Detroit, Washington, Baltimore, Tampa, Miami, Seattle, San Francisco, Columbus, Sacramento, San Juan, Richmond, Greensboro, and Jacksonville to the remaining field offices under their supervision. Again, under the circumstances discussed in this notice, more attention translates into more availability and accessibility of higher quality services.

For the reasons presented this notice, HUD/OIG intends to proceed to reclassify four investigative field offices as regional offices—Cleveland, Ohio; Baltimore, Maryland; Tampa, Florida; and Seattle, Washington—at the expiration of the 90-day period from the date of publication of this notice. The attachment to this notice presents the proposed staffing, and geographic coverage that will result from the reclassification of the four field offices of investigations.

Dated: September 8, 2008.

Kenneth M. Donohue,

Inspector General.

ATTACHMENT—PROPOSED STAFFING AND COVERAGE OF REALIGNMENT OF OFFICE OF INVESTIGATIONS

[BOLDED Cities are proposed new regional offices]

Projected FTEs by region	Offices	Current states	Proposed states
Boston (12)	Boston, Manchester, Hartford	Massachusetts, Rhode Island, Connecticut, New Hampshire, Maine, Vermont.	Massachusetts, Rhode Island, Connecticut, New Hampshire, Maine, Vermont.
New York City (19)	New York City, Buffalo	New York, New Jersey	New York only.
Philadelphia (19)	Philadelphia, Newark, Pittsburgh	.....	Pennsylvania, New Jersey, Delaware.
Baltimore (19)	Baltimore, Richmond, Greensboro	Pennsylvania, Delaware, Maryland, DC, Virginia, West Virginia.	Maryland, DC, Virginia, West Virginia, North Carolina.
Atlanta (28)	Atlanta, Knoxville Birmingham, ...	Georgia, Alabama, South Carolina, North Carolina, Tennessee, Kentucky, Florida, Puerto Rico, Mississippi.	Georgia, Alabama, South Carolina, Tennessee, Kentucky.
Tampa (16)	Tampa, Miami, Jacksonville, Puerto Rico.	.....	Florida, Puerto Rico, Virgin Island.
Chicago (26)	Chicago, Minneapolis, Indianapolis	Illinois, Indiana, Wisconsin, Minnesota, Ohio, Michigan.	Illinois, Indiana, Wisconsin, Minnesota.
Cleveland (23)	Cleveland, Detroit, Columbus	.....	Ohio, Michigan.
Arlington (29)	Arlington, Houston, San Antonio, Oklahoma City.	Texas, Oklahoma, Arkansas, New Mexico.	Texas, Oklahoma, Arkansas, New Mexico.
Kansas City (19)	Kansas City, Denver, St. Louis, Salt Lake City.	Kansas, Missouri, Colorado, Utah, Iowa, Nebraska, South Dakota, North Dakota, Wyoming.	Kansas, Missouri, Colorado, Utah, Iowa, Nebraska, South Dakota, North Dakota, Wyoming.
Los Angeles (13)	Los Angeles, Phoenix, Las Vegas	California, Nevada, Arizona, Washington, Oregon, Idaho, Montana, Alaska Hawaii, Guam.	Southern California, Nevada, Arizona, Hawaii, Guam.
San Francisco (14)	San Francisco, Sacramento, Seattle, Billings.	.....	Northern California, Washington, Oregon, Idaho, Montana, Alaska.
New Orleans (15)	New Orleans, Jackson, Arlington, Hattiesburg.	Louisiana, Mississippi	Louisiana, Mississippi.

* New Orleans will remain staffed at 15 rather then projected needed of 24. Other 9 FTE will be used to adjust levels of other regions.
** Projected FTE includes administrative staff.

[FR Doc. E8–21226 Filed 9–11–08; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2008–N0136; 80221–1112–0000–F2]

Coyote Springs Investment Planned Development Project Multiple-Species Habitat Conservation Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; final environmental impact statement and multi-species habitat conservation plan.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), the Fish and Wildlife Service (Service) as the lead agency, together with the U.S. Army Corps of Engineers (Corps) and Bureau of Land Management (BLM) as cooperating agencies, advise the public of the availability of the final Environmental Impact Statement (EIS) on the application from Coyote Springs Investment LLC (CSI) for a Section 10 incidental take permit pursuant to the Endangered Species Act of 1973, as amended (ESA), a section 404 permit under the Clean Water Act, and reconfiguration of CSI private and lease lands in Lincoln County. In addition, the EIS includes the proposed action of BLM issuing a right-of-way within the BLM utility corridor, located west of U.S. Highway 93 in Lincoln County for the construction of detention basins.

This notice also announces the availability of the CSI Multiple-Species Habitat Conservation Plan (MSHCP), which CSI has submitted as part of their incidental take permit application, and Implementing Agreement (legal contract for the MSHCP). The permit would authorize the incidental take of specified covered species over 40 years, including some that may become federally-listed during the term of the permit. The permit is needed because take of species could occur during CSI's proposed urban development activities located in a 21,454-acre area in southern Lincoln County, Nevada. In addition, take of species could occur during recreation and resource management activities within the 13,767-acre proposed Coyote Springs Investment Conservation Lands (CSICL) in Clark and Lincoln counties. The CSICL is an area leased by CSI from BLM, which would be managed for the conservation of the desert tortoise (*Gopherus agassizii*) and other covered species specified in the CSI MSHCP.

This notice is provided pursuant to applicable NEPA regulations (40 CFR 1506.6) to inform the public of the proposed action, and to make available for 30 days' review the final EIS, CSI MSHCP, and Implementing Agreement.

DATES: A Record of Decision will be signed no sooner than 30 days after the publication of the Environmental Protection Agency notice. Comments on the final EIS must be received on or before October 14, 2008.

ADDRESSES: Comments should be addressed to Robert D. Williams, Field Supervisor, Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, Nevada 89502, and fax number (775) 861–6301.

FOR FURTHER INFORMATION CONTACT: Robert D. Williams, Field Supervisor, Fish and Wildlife Service, Nevada Fish and Wildlife Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130, telephone (702) 515–5230 and fax number (702) 515–5231.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Copies of the EIS, CSI MSHCP, and Implementing Agreement are available

for public review during regular business hours from 9 a.m. to 5 p.m. at the Nevada Fish and Wildlife Office in Las Vegas, Nevada (see **FOR FURTHER INFORMATION CONTACT**). Copies are also available during the public comment period at the following libraries: (1) Clark County Library, 1401 E. Flamingo Road, Las Vegas, Nevada 89119; (2) Moapa Valley Library, 350 N. Moapa Valley Boulevard, Overton, Nevada 89040; (3) Washoe County Library, Downtown Main Branch, 301 South Center Street, Reno, Nevada 89501; (4) Lincoln County Library, 63 Main Street, Pioche, Nevada 89043; and (5) Alamo Branch Library, 100 North First Street, Alamo, Nevada 89001.

Individuals wishing copies of the EIS, CSI MSHCP, and Implementing Agreement should contact the Service by telephone (see **FOR FURTHER INFORMATION CONTACT**) or by letter (see **ADDRESSES**). These documents also are available on the Nevada Fish and Wildlife Office Web site at *http://www.fws.gov/nevada/highlights*.

Background Information

Section 9 of the Federal ESA of 1973, as amended and Federal regulations prohibit the take of fish and wildlife species listed as endangered or threatened (16 U.S.C. 1538). The term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532). Harm includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. Under limited circumstances, we may issue permits to authorize incidental take of listed fish or wildlife; i.e., take that is incidental to, and not the purpose of, otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively.

Although take of listed plant species is not prohibited under the Federal ESA, and therefore cannot be authorized under an incidental take permit, plant species may be included on a permit in recognition of the conservation benefits provided to them under a habitat conservation plan. All species included on an incidental take permit would receive assurances under the Services ''No Surprises'' regulation 50 CFR 17.22(b)(5) and 17.32(b)(5).

The EIS analyzes the impacts of the proposed implementation of the CSI MSHCP by the Applicant (CSI). The Applicant seeks a 40-year incidental take permit for covered activities within a proposed 21,454-acre development area located in southern Lincoln County, Nevada. The development area extends approximately nine miles north of the Lincoln County-Clark County line. The CSI MSHCP also would cover approximately 13,767 acres of leased land in Lincoln County (approximately 7,548 acres) and Clark County (approximately 6,219 acres). The leased lands would be designated as the CSICL and would be managed for the conservation of species, habitat, and waters of the United States (WOUS).

Land leased and owned by the Applicant occupies most of the eastern portion of Coyote Spring Valley straddling the Pahranagat Wash and the Kane Springs Wash in Lincoln County. This area is bordered by the Delamar Mountains to the north, the Meadow Valley Mountains to the east, and U.S. Highway 93 to the west. The leased land in Clark County is bordered by State Route 168 to the south. The surrounding land is primarily owned and managed by the BLM and Service. South of the development area, CSI privately-owned lands are being developed in Clark County and are covered under the existing Clark County Multiple Species Habitat Conservation Plan.

The Applicant has requested a permit for two federally listed species, the threatened desert tortoise (Mojave population) and the endangered Moapa dace (*Moapa coriacea*) and three species that are not listed under the Federal ESA at the current time: banded Gila monster (*Heloderma suspectum cinctum*), Virgin River chub (*Gila seminuda*) (Muddy River population), and the Western burrowing owl (*Athene cunicularia hypugaea*).

Proposed covered activities and projects within the CSI MSHCP fall within six categories: Community development and construction activities; recreational facilities and open space; utility infrastructure; water supply infrastructure; flood control structures development and maintenance (including stormwater management); and resource management features (including re-alignment of the existing land ownership, subject to BLM approval and compliance with applicable laws, to minimize impacts to desert tortoise and management of the CSICL).

The CSI MSHCP's proposed conservation strategy is designed to minimize and mitigate the impacts of covered activities, contribute to the recovery of listed covered species, and protect and enhance populations of non-listed covered species. The strategy provides for the designation and management of a conservation area for species, habitat and WOUS on approximately 13,767 acres. Other conservation measures include: (1) Development and implementation of a long-term protection plan for the Moapa dace and Virgin River chub; (2) payment of mitigation fees, in the amount of $800 per acre of disturbance for the development of private land, which would be used to fund research on the covered species and management of the CSICL, and other mitigation measures as described in the CSI MSHCP; and (3) creation of a wash buffer zone easement within the development area.

National Environmental Policy Act Compliance

Proposed permit issuance triggers the need for compliance with NEPA. As lead agency, the Service has prepared an EIS that analyzes alternatives associated with issuance of the incidental take permit. Cooperating agencies to the final EIS include the Corps and BLM. The EIS analyzes the Corps' issuance of a section 404 permit to CSI under the Clean Water Act for the proposed urban development on 21,454-acres of private land and for the proposed detention basins on BLM-administered land in Lincoln County. The EIS also addresses BLM's proposed reconfiguration of the CSI private and BLM leased lands and issuance of a right-of-way to CSI for the construction of detention basins on up to 244 acres of BLM-administered land within the utility corridor located west of U.S. Highway 93 in Lincoln County. The proposed detention basins on BLM-administered land are not included as a covered activity in the CSI MSHCP but would be subject to a section 7 formal consultation under ESA.

Public Involvement

A Notice of Intent (NOI) to prepare an EIS was published in the **Federal Register** for this project on December 4, 2001 (66 FR 63065). A second NOI was published on September 12, 2006 (71 FR 53704) and scoping meetings were held on September 26 and 27, 2006, in Alamo and Moapa, Nevada, respectively. A third NOI was published on November 2, 2006 (71 FR 64555) to reopen the public comment period and to correct inaccurate contact information provided in the September 12, 2006 notice. On November 2, 2007, a NOA of the draft CSI MSHCP, draft EIS, and draft Implementing Agreement was published in the **Federal Register** (72 FR 62229). A 60-day public comment period on the draft documents closed on January 2, 2008, with individual extensions granted until

January 14, 2008, as requested by several entities.

Public Comments

The Service and Applicant invite the public to comment on the final EIS, CSI MSHCP, and Implementing Agreement during a 30-day public comment period beginning on the date of this notice. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The Service will evaluate the application, associated documents, and comments submitted to determine whether the application meets the requirements of section 10(a) of the ESA. A permit decision will be made no sooner than 30 days after the publication of the EIS and completion of the Record of Decision.

This notice is provided pursuant to section 10(a) of the Federal ESA and regulations for implementing NEPA, as amended (40 CFR 1506.6).

Dated: August 28, 2008.

Richard E. Sayers,

Acting Deputy Regional Director, California and Nevada Region, Sacramento, CA.

[FR Doc. E8–21284 Filed 9–11–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–310–0777–XG]

Notice of Public Meeting: Northwest California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U. S. Department of the Interior, Bureau of Land Management (BLM) Northwest California Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held Thursday and Friday, Nov. 20 and 21, at the Woodland Public Library, 250 First St., Woodland, Calif. On Nov. 20, the RAC will convene at 10 a.m. for a tour of public lands in the Cache Creek Natural Area. On Nov. 21, the council convenes at 8 a.m. at the Woodland Library.

FOR FURTHER INFORMATION CONTACT: Lynda Roush, BLM Arcata Field Office manager, (707) 468–4000; or BLM Public Affairs Officer Joseph J. Fontana, (530) 252–5332.

SUPPLEMENTARY INFORMATION: The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Northwest California. At this meeting, agenda topics include discussion of the Recreation and Public Purposes Act, discussion about RAC travel schedules, a status report on the north coast geotourism initiative, an overview of fire impacts on public lands, and status reports from the managers of the Alturas, Redding and Ukiah field offices. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on field tours, but they must provide their own transportation and lunch. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: September 5, 2008.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. E8–21334 Filed 9–11–08; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU 014955 and UTU 015233]

Opening of National Forest System Lands; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: Public Land Order No. 1579, which withdrew lands within National Forests and reserved them for use of the Forest Service for administrative sites and recreational areas, was partially revoked as to 3,613 acres by Public Land Order No. 7663. This order opens those previously withdrawn lands to such forms of disposition as may by law be made of National Forest System lands and to mining.

DATES: *Effective Date:* October 14, 2008.

FOR FURTHER INFORMATION CONTACT: Rhonda Flynn, BLM Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101–1345, 801–539–4132.

SUPPLEMENTARY INFORMATION:

1. Public Land Order No. 1579 (23 FR 798 (1958)), withdrew lands for administrative sites and recreational areas.

2. Public Land Order No. 7663 (71 FR 28370 (2006)) revoked Public Land Order No. 1579 insofar as it affected the lands described below. The Forest Service has determined the lands can be opened to such forms of disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws:

(a) Uinta National Forest

Salt Lake Meridian

Aspen Grove Recreation Area

T. 5 S., R. 3 E.,
Sec. 4, all of the S½ of lot 7 north of the centerline of State Highway 92, SE¼SE¼SW¼, and S½SW¼SE¼;
Sec. 9, W½NW¼NE¼, SE¼NW¼NE¼, and NE¼NW¼.

Big Tree Forest Camp No. 1 Recreation Area

T. 4 S., R. 3 E.,
Sec. 33, S½SW¼NE¼, N½SE¼SE¼, and N½SE¼;
Sec. 34, W½NW¼SW¼.

Granite Flat Recreation Area

T. 4 S., R. 2 E.,
Sec. 1, SE¼SE¼;
Sec. 12, E½E½NE¼.
T. 4 S., R. 3 E.,
Sec. 7, N½NW¼NE¼NW¼, NE¼NE¼NW¼, S½NE¼NE¼SW¼, S½NE¼SW¼, NW¼NE¼SW¼, N½SE¼SW¼, N½NE¼SE¼, E½NE¼NW¼SE¼, SW¼NW¼SE¼, and W½SE¼NW¼SE¼.

Holman Flat Forest Camp Recreation Area

T. 4 S., R. 3 E.,
Sec. 5, lots 5, 6, 7, and 9 and W½SE¼NW¼.

Little Valley Recreation Area

T. 10 S., R. 5 W.,
Sec. 14, NW¼NW¼;
Sec. 15, NE¼NE¼.

Mutual Dell Recreation Area

T. 4 S., R. 3 E.,
Sec. 29, SW¼NW¼ and S½NW¼NW¼;
Sec. 30, all of NE¼NE¼ North of the centerline of State Route 92, NW¼NE¼, and N½SE¼NE¼.

Silver Lake Flat Recreation Area

T. 3 S., R. 2 E.,
Sec. 36, SE¼NE¼ and E½SE¼.

T. 4 S., R. 2 E.,
Sec. 1, lots 1 and 8.
T. 3 S., R. 3 E.,
Sec. 31, lots 2, 3, and 4.
T. 4 S., R. 3 E.,
Sec. 6, all of lot 6 North of Silver Creek, lots 4 and 5, SE¼NW¼, SE¼SW¼, NE¼SW¼, and SW¼SE¼.

South Fork to Tibble Fork Recreation Areas

T. 4 S., R. 2 E.,
Sec. 24, W½SE¼NE¼, W½E½SE¼NE¼, and SE¼NE¼NE¼.
T. 4 S., R. 3 E.,
Sec. 7, E½NW¼, E½SE¼SW¼, W½SW¼SE¼, NE¼SE¼SE¼, NE¼SE¼SE¼SE¼, and NE¼SE¼SE¼SE¼;
Sec. 8, NE¼SW¼NW¼SW¼, S½SW¼NW¼SW¼, SE¼NW¼SW¼, N½SW¼SW¼, N½SW¼SW¼, N½S½SW¼SW¼, and SE¼SE¼SW¼SW¼;
Sec. 17, NE¼NW¼, E½NE¼NW¼NW¼, S½SW¼NW¼NW¼, SE¼NW¼NW¼, and N½SW¼NW¼;
Sec. 18, lot 4, W½NW¼NE¼NE¼, SW¼NE¼NE¼, S½SE¼NE¼NE¼, SE¼NW¼NE¼, SW¼NE¼, W½SW¼NE¼, E½NE¼NW¼, NW¼SE¼NW¼, W½NW¼SW¼SW¼, NE¼NW¼SW¼, E½W½SW¼, W½SE¼SW¼, W½W½SW¼SW¼, E½NW¼SW¼SW¼, and SE¼SW¼SW¼;
Sec. 19, E½NW¼NW¼.

Timpanogos Cave Recreation Area

T. 4 S., R. 2 E.,
Sec. 24, all of the S½S½SW¼ lying within the Lone Peak Wilderness boundary;
Sec. 25, all of the N½NW¼NW¼ lying within the Lone Peak Wilderness boundary, S½SW¼NW¼NW¼, NE¼NE¼NE¼NW¼, S½NE¼NE¼NW¼, SE¼NW¼NW¼, and S½NE¼NW¼;
Sec. 26, all of the N½N½NE¼ lying within the Lone Peak Wilderness boundary, all of the S½NW¼NE¼ lying within the Lone Peak Wilderness boundary, S½S½NE¼NE¼, S½N½NW¼ lying within the Lone Peak Wilderness boundary, S½N½SE¼NW¼, and S½NE¼SW¼NW¼;
Sec. 27, all of the S½NE¼ lying within the Lone Peak Wilderness boundary, S½S½SE¼NE¼, and S½SE¼SW¼NE¼.

Timpooneke Recreation Area

T. 4. S., R. 3 E.,
Sec. 29, N½SE¼SW¼ and all of SE¼SE¼SW¼ East of the centerline of State Route 92;
Sec. 31, S½NE¼SW¼NE¼, S½N½SE¼NE¼, and S½S½NE¼;
Sec. 32, all of NE¼NE¼NW¼ East and South of the centerline of State Route 92, SW¼NE¼, S½NW¼, and S½NE¼NW¼.

Little Valley Administrative Site

T. 10 S., R. 5 W.,
Sec. 14, NE¼NW¼.

South Fork Administrative Site

T. 4 S., R. 2 E.,
Sec. 24, E½NW¼SE¼, NE¼SE¼, SW¼SE¼, S½SE¼SE¼, E½NE¼SE¼SE¼, NE¼NW¼NE¼SE¼SE¼, SW¼NW¼SE¼SE¼, W½NW¼NW¼SE¼SE¼, and SW¼SE¼NW¼SE¼SE¼.
T. 4 S., R. 3 E.,
Sec. 19, lot 4.

Timpooneke Administrative Site

T. 4 S., R. 3 E.,
Sec. 32, SW¼NW¼NW¼, S½SW¼SE¼NW¼NW¼, E½E½SE¼NW¼NW¼, and SW¼SE¼SE¼NW¼NW¼.

(b) Wasatch-Cache National Forest

Salt Lake Meridian

Alexander Lake Recreation Area

T. 2 S., R. 8 E.,
Sec. 25, S½SE¼SE¼;
Sec. 36, NE¼NE¼ and E½NW¼NE¼.
T. 2 S., R. 9 E.,
Sec. 30, SW¼SW¼;
Sec. 31, NW¼NW¼.

Blacks Fork Camp No. 1 Recreation Area

T. 2 N., R. 11 E.,
Sec. 24, SW¼NW¼.

Blacks Fork Camp No. 3 Recreation Area

T. 2 N., R. 11 E.,
Sec. 35, NW¼NW¼NE¼ and NE¼NE¼NW¼.

Brush Creek Recreation Area

T. 2 N., R. 12 E.,
Sec. 8, NE¼NE¼.

Buckeye Lake Recreation Area

T. 2 S., R. 8 E.,
Sec. 13, SE¼SE¼SE¼;
Sec. 24, E½NE¼NE¼.
T. 2 S., R. 9 E.,
Sec. 19, NW¼NW¼.

Haydens Camp No. 2 Recreation Area

T. 1 N., R. 10 E.,
Sec. 8, W½NW¼.

Haydens Camp No. 3 Recreation Area

T. 1 N., R. 9 E.,
Sec. 36, S½NW¼NW¼ and SW¼NW¼.

Hourglass Lake Recreation Area

T. 2 S., R. 8 E.,
Sec. 24, S½NW¼SW¼ and N½SW¼SW¼.

Lodge Pole Camp Recreation Area

T. 2 N., R. 10 E.,
Sec. 26, W½NE¼SW¼ and E½NW¼SW¼.

Packers Camp Recreation Area

T. 1 S., R. 10 E.,
Sec. 19, NE¼NW¼.

Pine Creek Camp Recreation Area

T. 3 S., R. 7 W.,
Sec. 2, lots 1, 2 and 3 and SE¼NW¼.

Rock Creek Camp Recreation Area

T. 3 S., R. 8 E.,
Sec. 4, SW¼SW¼.

Stillwater Camp No. 2 Recreation Area

T. 1 N., R. 10 E.,
Sec. 9, NE¼NW¼.

Sulphur Camp Recreation Area

T. 1 N., R. 9 E.,
Sec. 24, S½SW¼NE¼, W½SW¼SE¼, and NW¼SE¼.

(c) Wasatch-Cache National Forest

Uinta Special Meridian

Hoover and Marshall Recreation Area

T. 3 N. R. 9 W.,
Sec. 2, SE¼SW¼, and SW¼SE¼;
Sec. 11, NW¼NE¼ and NE¼NW¼.

The areas described aggregate approximately 3,613 acres in Duchesne, Juab, Salt Lake, Summit, Tooele, Utah, and Wasatch Counties.

3. At 10 a.m. on October 14, 2008, the lands described in Paragraph 2 shall be opened to such forms of disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (2000), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Authority: 43 CFR 2091.6.

Kent Hoffman,

Deputy State Director, Lands and Minerals Division.

[FR Doc. E8–21281 Filed 9–11–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV040–1920–PN–4138; NVN–50250; 8–08807; TAS: 14X1109]

Notice of Proposed Withdrawal Extension and Opportunity for Public Meeting, Yucca Mountain, Nye County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of Energy (DOE) proposes to extend the duration of Public Land Order (PLO) No. 6802, issued in 1990, and extended by PLO No. 7534 for an additional 12 year period. PLO No. 6802 withdrew 4,255.50 acres of public land in Nye County from location and entry under the United States mining laws (30 U.S.C. 2), and from leasing under the mineral leasing laws, to maintain the physical integrity of the subsurface environment at Yucca Mountain.

DATES: Comments and requests for a meeting should be received on or before December 11, 2008.

ADDRESSES: Comments and meeting requests may be mailed to the Nevada State Director, Attn: NV 930 Yucca Mountain Withdrawal, Bureau of Land Management, 1340 Financial Blvd., P.O. Box 12000, Reno, NV 89520.

FOR FURTHER INFORMATION CONTACT: Jacqueline M. Gratton, 775–861–6532.

SUPPLEMENTARY INFORMATION: The withdrawal created by PLO No. 6802 (55 FR 39152 (1990)) as extended by PLO No. 7534 (67 FR 53359 (2002)) will expire on January 31, 2010, unless extended. The DOE filed an application to extend their withdrawal of public land at Yucca Mountain in Nye County. The proposed twelve (12) year extension would continue the withdrawal of public land from location under the United States mining laws and from leasing under the mineral leasing laws for the lands described in PLO No. 6802.

The DOE proposes to extend the withdrawal through January 31, 2022. The extension of the withdrawal would maintain the physical integrity of the subsurface environment to ensure that scientific studies for site characterization at Yucca Mountain are not invalidated or otherwise adversely impacted. Site characterization activities will be used to determine the suitability of Yucca Mountain for a permanent nuclear waste repository.

The use of a right-of-way, interagency, or cooperative agreement would not adequately constrain nondiscretionary uses which could result in permanent loss of significant values and threaten public health and safety and Federal investment.

There are no suitable alternative sites since the lands described herein contain the specific resource value and Federal improvements described in the application.

No water rights would be needed to fulfill the purpose of the requested withdrawal extension.

Records relating to the application may be examined by contacting Jacqueline M. Gratton at the address or phone number above.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal extension may present their views in writing to the Nevada State Director of the Bureau of Land Management.

Comments, including names and street addresses of respondents, will be available for public review at the BLM Nevada State Office at the address stated above, during regular business hours: 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. 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. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal extension. All interested persons who desire a public meeting for the purpose of being heard on the proposed extension must submit a written request to the Nevada State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and at least one local newspaper 30 days before the scheduled date of the meeting.

This withdrawal extension proposal will be processed in accordance with the applicable regulations set forth in accordance with 43 CFR 2310.4

Authority: 43 CFR 2310.3–1.

Dated: September 4, 2008.

Michael R. Holbert,

Deputy State Director, Resources, Lands and Planning.

[FR Doc. E8–21338 Filed 9–11–08; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Boundary Revision

AGENCY: National Park Service, Department of the Interior.

ACTION: Notification of boundary revision.

SUMMARY: Notice is hereby given that the boundary of Big Thicket National Preserve is modified to include seven tracts of land adjacent to the park. This revision is made to include privately owned property that the landowners wish to donate to the United States. The National Park Service has determined that inclusion of the seven tracts within the preserve's boundary will make significant contributions to the purposes for which the preserve was established. After the United States acquires the tracts, the National Park Service will manage them in accordance with applicable law.

FOR FURTHER INFORMATION CONTACT: National Park Service, Glenna F. Vigil, Chief, Land Resources Program Center, Intermountain Region, P.O. Box 728, Santa Fe, New Mexico 87504.

DATES: The effective date of this boundary revision is the date of publication in the **Federal Register**.

SUPPLEMENTARY INFORMATION: The Act of October 11, 1974, Public Law 93–439, 88 Stat. 1254, codified as amended at 16 U.S.C. 698 through 698e (2006), established the Big Thicket National Preserve and provides that after advising the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources, the Secretary of the Interior is authorized to make these boundary revisions. This action will add seven tracts comprising 6,281.19 acres of land, more or less, of land to the Big Thicket National Preserve. The acquisition of these tracts is required to maintain the preserve's natural and ecological integrity. The seven tracts are listed as follows: Tract 201–12, 92.00 acres; Tract 202–10, 816.70 acres; Tract 224–15, 81.05 acres; Tract 225–16, 167.05 acres; Tract 229–03, 4,500 acres, more or less; Tract 229–04, 408.69 acres; and Tract 229–05, 215.70 acres. The referenced tracts are depicted on the following land acquisition segment maps as follows:

Segment Map 201, sheet 7 of 8, having drawing no. 175/30,012; Segment Map 202, sheet 8 of 8, having drawing no. 175/30,012; Segment Map 224, sheet 7 of 10, having drawing no. 175/80,010; Segment Map 225, sheet 8 of 10, having drawing no. 175/80,010 and Segment Map 229, sheet 1 of 1, having drawing no. 175/80,016.

Note: When contacting this office or any government office, 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.

Note: This document was received at the Office of the Federal Register on September 9, 2008.

Dated: March 10, 2008.

Michael D. Snyder,

Regional Director, Intermountain Region.

[FR Doc. E8–21286 Filed 9–11–08; 8:45 am]

BILLING CODE 4312–CB–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of a Meeting for Denali National Park Subsistence Resource Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of a meeting for Denali National Park Subsistence Resource Commission.

SUMMARY: The Denali National Park Subsistence Resource Commission (SRC) will meet to develop and continue work on National Park Service (NPS) subsistence hunting program recommendations and other related subsistence management issues. This meeting is open to the public and will have time allocated for public testimony. The public is welcomed to present written or oral comments to the SRC. This meeting will be recorded and meeting minutes will be available upon request from the park superintendent for public inspection approximately six weeks after each meeting. The NPS subsistence resource commission program is authorized under Title VIII, Section 808 of the Alaska National Interest Lands Conservation Act, Public Law 96–487, to operate in accordance with the provisions of the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Amy Craver, Subsistence Manager, (907) 683–9544 or Philip Hooge, Assistant Superintendent, (907) 683–959561. Address: Denali National Park and Preserve, P.O. Box 9, Denali Park, AK 99755.

Proposed Meeting Date: The SRC meeting will be held on Friday, October 17, 2008, from 9 a.m. to 5 p.m.

Location: Denali National Park Headquarters, Murie Science and Learning Center, Denali Park, AK.

The proposed SRC meeting agenda includes the following:

1. Call to order.
2. SRC Roll Call and Confirmation of Quorum.
3. SRC Chair and Superintendent's Welcome and Introductions.
4. Approval of Minutes from Last SRC Meeting.
5. Review and Approve Agenda.
6. Status of SRC Membership and Charter.
7. Election of Chair and Vice Chair (New charter requires annual elections).
8. SRC Member Reports.
9. Park Subsistence Manager Report.
   a. Moose Hide Boat Project Update.
   b. NPS Funded Subsistence Projects.
10. Denali National Park and Preserve Staff Reports.
   a. Resource Management Report.
   b. Cantwell ORV Traditional Use Area Update.
   c. Status NPS EA for Use of Horns and Antlers.
   d. Shallow Lakes Project.
   e. Subsistence Replacement Trapping Cabins EA.
   f. Ranger Division Update.
   g. Wildlife Biologist Report—Status of Wildlife Surveys.
   h. Alaska Board of Game Update.
   i. Federal Subsistence Board Update.
11. October 2007 SRC Chairs Workshop Report.
12. New Business.
13. Public and Other Agency Comments.
14. SRC Work Session.
15. Set Time and Place for Next SRC Meeting.
16. Adjournment.

SUPPLEMENTARY INFORMATION: SRC meeting location and date may need to be changed based on weather or local circumstances. If meeting date and location are changed, a notice will be published in local newspapers and announced on local radio stations prior to the meeting date. The meeting may end early if all business is completed.

Dated: August 28, 2008.

Victor Knox,

Deputy Regional Director.

[FR Doc. E8–21271 Filed 9–11–08; 8:45 am]

BILLING CODE 4310–PF–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Development of Voluntary Standard (ANSI/ROV–1–200X) for Recreational Off-Highway Vehicles

Notice is hereby given that, on July 24, 2008, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Development of Voluntary Standard (ANSI/ROV–1–200X) for Recreational Off-Highway Vehicles (''DVSROV'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the identities of the parties to the venture are: American Honda Motor Co., Inc., Torrance, CA; Arctic Cat Inc., Thief River Falls, NM; Kawasaki Motors Corp., U.S.A., Irvine, CA; Polaris Industries Inc., Medina, MN; and Yamaha Motor Corporation, U.S.A., Cypress, CA. The general areas of DVSROV's planned activities are conducting research, collecting, exchanging and analyzing research information relating to development of a voluntary standard (ANSI/ROV–1–200X) for recreational off-highway vehicles.

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E8–21290 Filed 9–11–08; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

September 5, 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 Mary Beth Smith-Toomey on 202–693–4223 (this is not a toll-free number)/ e-mail *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Dept. of Labor—Employment and Training Administration, 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: **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: Employment and Training Administration.

Type of Review: Revision of an existing OMB Control Number.

Title of Collection: State Planning Guidance and Instructions for Title I of the Workforce Investment Act of 1998 (WIA) and the Wagner-Peyser Act and State Unified Plan Planning Guidance for State Unified Plans and Unified Plan Modifications.

OMB Control Number: 1205–0398.

Affected Public: State, Local or Tribal Governments.

Total Estimated Number of Respondents: 59.

Total Estimated Annual Burden Hours: 2,950.

Total Estimated Annual Costs Burden: $0.

Description: The Workforce Investment Act of 1998 (WIA) (Pub. L. 105–220) provides the framework for a network of State workforce investment systems designed to meet the needs of the nation's businesses, job seekers, youth, and those who want to further their careers. Title I of WIA requires that States develop five-year strategic plans for this system, which must also contain the detail plans required under the Wagner-Peyser Act (29 U.S.C. 49g). Plan modifications to the WIA title I and Wagner-Peyser Act (29 U.S.C. 49g) are required by WIA 20 CFR 661–230. Section V provides States the option of submitting a State Unified Plan. The State Unified Plan was previously cleared under OMB Control Number 1205–0407 and is now being combined with this request for clarity and because they are so closely related in scope and requirements. For additional information, see the related notices published at Volume 73 FR 24613 through 24614 on May 5, 2008.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E8–21235 Filed 9–11–08; 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 August 25 through August 29, 2008.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for

the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W–63,412; Pfizer, Inc, Conshohocken, PA: May 19, 2007.

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–63,803; MIG Wire and Tube, LLC, Chattanooga, TN: August 1, 2007.

TA–W–63,868; MSX International, St. Louis Tire and Wheel Assembly, St. Louis, MO: August 13, 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–63,766; Federal-Mogul Corporation, Lighting Products Div., Boyertown, PA: July 24, 2007.

TA–W–63,869; Syntex Rubber Corporation, Monroe Staffing, Bridgeport, CT: August 13, 2007.

TA–W–63,676; Stark Candy Company, Subsidiary of New England Confectionery Co., Pawaukee, WI: July 10, 2007.

TA–W–63,712A; Gentry Mills, Inc., Albemarle, NC: July 18, 2007.

TA–W–63,712; Gentry Mills, Inc., Wadesboro, NC: July 18, 2007.

TA–W–63,748; Great Eastern Mussel Farms, Inc., Manpower and @Work Personnel Services, Tenants Harbor, ME: July 25, 2007.

TA–W–63,826; Belco Forest Products, Inc., Shelton, WA: August 5, 2007.

TA–W–63,844; Kenro Incorporated, Seek Careers and Staffing, Fredonia, WI: August 8, 2007.

TA–W–63,793; General Motors Corporation, Vehicle Mfg. Div, Shreveport Assembly, Development Dimension, Shreveport, LA: August 1, 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–63,622; Plastech Engineered Products, Molding Division, Grandville, MI: June 26, 2008.

TA–W–63,645; Kavlico Corporation, Custom Sensors & Tech., Select Temp & Triad Agency, Moorpark, CA: June 23, 2007.

TA–W–63,774; AME Manufacturing, Inc., Riverside, CA: July 25, 2008.

TA–W–63,840; Intermec Technologies Corporation, Everett, WA: July 30, 2007.

TA–W–63,703A; Armstrong Wood Products, Inc., Armstrong Hardwood Flooring Company, Oneida, TN: July 11, 2007.

TA–W–63,703B; Armstrong Wood Products, Inc., Armstrong Hardwood Flooring Company, Oneida, TN: July 11, 2007.

TA–W–63,703; Armstrong Wood Products, Inc., Armstrong Hardwood Flooring Company, Oneida, TN: July 11, 2007.

TA–W–63,299; Siegel Robert Automotive, Farmington, MO: April 29, 2007.

TA–W–63,736; Portage Tool, A Division of Tempel Steel Company, Chicago, IL: July 21, 2007.

TA–W–63,770; ACCO Brands, Pleasant Prairie, WI: July 28, 2007.

TA–W–63,776; GE Consumer and Industrial Lighting, Cleveland, OH: July 29, 2007.

TA–W–63,789; Newport Corporation, Spectra-Physics Lasers, High Power Diode Dept, Tucson, AZ: July 28, 2007.

TA–W–63,864; Luminent OIC, Inc., DBA Source Photonics, Inc., Production Division, Chatsworth, CA: August 11, 2007.

TA–W–63,878; Gerber Scientific, Inc., South Windsor, CT: August 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–63,763; Bennington Paperboard, Subsidiary of The Newark Group, North Hoosick, NY: July 28, 2007.

TA–W–63,764; Haverhill Paperboard, Subsidiary of The Newark Group, Bradford, MA: July 28, 2007.

TA–W–63,861; American Trim, LLC, Southern Operations, Cullman, AL: August 8, 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.

TA–W–63,868; MSX International, St. Louis Tire and Wheel Assembly, St. Louis, MO.

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–63,412; Pfizer, Inc, Conshohocken, PA.
TA–W–63,803; MIG Wire and Tube, LLC, Chattanooga, TN.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

None.

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–63,699; England, Inc., Morristown, TN.
TA–W–63,707; Alcoa, Inc., Rockdale, TX.
TA–W–63,716; Woodbridge Corporation, Brodhead, WI.
TA–W–63,785; American Woodmark, Ham Lake, MN.
TA–W–63,800; Columbia Falls Aluminum Company, LLC, Columbia Falls, MT.
TA–W–63,853; Red Sheld Environmental, LLC, Old Town, ME.
TA–W–63,909; Auxora, Inc., Baldwin Park, CA.
TA–W–63,708; ABB Reliability Services, Full Service, Working at International Paper, Mansfield, LA.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–63,845; Monster Cable Products, Distribution Center, Inventory & Quality Control, Brisbane, CA.
TA–W–63,886; Geo Specialty Chemicals, Rubber and Plastics Division, Gibbstown, NJ.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the period of August 25 through August 29, 2008. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 4, 2008.

Erin FitzGerald,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E8–21320 Filed 9–11–08; 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 September 22, 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 September 22, 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 September 2008.

Erin Fitzgerald,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 8/25/08 and 8/29/08]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
63924	Boise Cascade, LLC (AFL–CIO)	La Grande, OR	08/25/08	08/20/08
63925	Hutchinson FTS (Comp)	Byrdstown, TN	08/25/08	08/22/08
63926	Veyance Technologies, Inc. (Comp)	Fairlawn, OH	08/25/08	08/22/08
63927	Delfingen US, Inc. (Comp)	El Paso, TX	08/25/08	06/24/08
63928	Norandal USA, Inc. (Comp)	Salisbury, NC	08/25/08	08/22/08
63929	Superior Industries International Incorporated (Comp)	Pittsburg, KS	08/25/08	08/22/08
63930	Liberty Molds, Inc. (State)	Portage, MI	08/25/08	08/22/08
63931	Melco Engraving (State)	Rochester Hills, MI	08/25/08	08/21/08
63932	Irving Forest Products/Pinkham Saw Mill (Union)	Fort Kent, ME	08/25/08	08/21/08
63933	Upoc Networks, Inc./Administaff Companies (State)	New York, NY	08/25/08	08/19/08
63934	SMI Global Corporation (State)	Bellevue, WA	08/26/08	08/25/08
63935	Kellwood Company (State)	Chesterfield, MO	08/27/08	08/18/08

APPENDIX—Continued

[TAA petitions instituted between 8/25/08 and 8/29/08]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
63936	EPT (Comp)	Maysville, KY	08/27/08	08/26/08
63937	Escalade Sports, Inc. (IUECWA)	Evansville, IN	08/27/08	08/25/08
63938	Parker Hosiery Company, Inc. (Comp)	Old Fort, NC	08/27/08	08/25/08
63939	Hewlett Packard/Technology Development Organization (Wkrs)	Corvallis, OR	08/27/08	08/26/08
63940	Diebold, Inc. (Wkrs)	Lexington, NC	08/27/08	08/25/08
63941	General Motors (State)	Doraville, GA	08/27/08	08/26/08
63942	Mega Building Systems (Wkrs)	Springfield, MO	08/27/08	08/25/08
63943	Dana Holding Corporation, Sealing Products Grp (Comp)	Paris, TN	08/27/08	08/13/08
63944	Norma Products (US), Inc. (Wkrs)	Wixom, MI	08/27/08	08/19/08
63945	Beiersdorf (Comp)	Mariemont, OH	08/28/08	08/27/08
63946	Rayloc—Morganfield (Wkrs)	Morganfield, KY	08/28/08	08/14/08
63947	Rayloc—Payson (Wkrs)	Payson, UT	08/28/08	08/14/08
63948	Kulp Foundry (Comp)	East Stroudsburg, PA	08/28/08	08/19/08
63949	Casco Group, Inc. (State)	Cerritos, CA	08/28/08	08/25/08
63950	Howmet Corporation (Union)	Whitehall, MI	08/28/08	08/27/08
63951	CFM U.S. Corporation (Comp)	Huntington, IN	08/28/08	08/27/08
63952	Intel Corporation (Comp)	Rio Rancho, NM	08/28/08	08/20/08
63953	Katahdin Paper Company, LLC (Comp)	Millinocket, ME	08/28/08	08/27/08
63954	Flextronics (Wkrs)	Charlotte, NC	08/28/08	08/27/08
63955	South Company, Inc. (Wkrs)	Concordville, PA	08/28/08	08/27/08
63956	Cooper Standard Automotive (UAW)	Gaylord, MI	08/28/08	08/22/08
63957	Phillips Plastics Corporation (Wkrs)	Medford, WI	08/28/08	08/27/08
63958	American Parts and Services, Inc. (Comp)	Schaumburg, IL	08/29/08	08/28/08
63959	KOH Defense Systems, Inc. (Wkrs)	Johnstown, Pa	08/29/08	08/28/08
63960	Peoploungers (Comp)	Mantachie, MS	08/29/08	08/28/08

[FR Doc. E8–21319 Filed 9–11–08; 8:45 am]
BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,516]

Morlite/Vista Lighting, Genlyte Group, Erie, PA; Notice of Negative Determination Regarding Application for Reconsideration

By application dated August 19, 2008, a worker requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of Morlite/Vista Lighting, Genlyte Group, Erie, Pennsylvania to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA).

The negative determination was issued on July 15, 2008. The Department's Notice of negative determination was published in the **Federal Register** on July 30, 2008 (73 FR 44284). The workers at Morlite/Vista Lighting, Genlyte Group, Erie, Pennsylvania (subject facility) produce commercial light fixtures for the security and healthcare industries, and are not separately identifiable by product line.

The petition was denied because sales and production at the subject facility increased in 2007 when compared with 2006 and increased from January through May 2008 when compared with the corresponding period in 2007. The initial investigation also revealed that Morlite/Vista Lighting (subject firm) did not shift production of commercial light fixtures from the subject facility to a foreign country during the relevant period.

Pursuant to 29 CFR 90.18(c), administrative reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

In the request for reconsideration, the worker asserts that the shift of production from Tupelo, Mississippi to China enabled the subject firm to shift production from Erie, Pennsylvania to Tupelo, Mississippi, and thereby caused the workers' separations.

To certify a worker group for TAA on a shift of production basis, the Department must find that there has been a shift in production by the workers' firm or appropriate subdivision to a foreign country of articles like or directly competitive with articles which are produced by the workers' firm or subdivision.

A shift of production of flange kits from the subject firm's Tupelo, Mississippi facility to a foreign country is not the same as a shift of production of commercial light fixtures from the subject firm's Erie, Pennsylvania facility to a foreign country. Flange kits are neither like nor directly competitive with the commercial light fixtures produced at the subject facility.

After careful review of the request for reconsideration, the Department determines that there is no new information that supports a finding that Section 222 of the Trade Act of 1974 was satisfied and that no mistake or misinterpretation of the facts or of the law with regards to the number or proportion of workers separated from the subject firm during the relevant period.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 2nd day of September 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–21322 Filed 9–11–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,317]

Union Carbide Corporation, a Subsidiary of the Dow Chemical Company, West Virginia Operations, South Carleston Technology Park, South Charleston, WV; Notice of Revised Determination on Reconsideration of Alternative Trade Adjustment Assistance

On August 21, 2008, the Department of Labor (Department) received a request for administrative reconsideration of the Department's negative determination regarding eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) applicable to workers and former workers of the subject firm.

On July 18, 2008, the Department issued a certification regarding the subject workers' eligibility to apply for Trade Adjustment Assistance (TAA) and a negative determination regarding their eligibility to apply for ATAA. The Department's Notice of determination was published in the **Federal Register** on July 30, 2008 (73 FR 44283). The ATAA investigation determined that, although the workers possess skills that are not easily transferrable and a significant number of workers in the workers' firm are 50 years of age or older, conditions within the chemical industry are not adverse.

A Notice of Affirmative Determination Regarding Application for Reconsideration, applicable to workers and former workers of the subject firm, was issued on August 26, 2008, and will soon be published in the **Federal Register**.

During the reconsideration investigation, the Department received new information which indicated that employment related to the chemical industry in the state of West Virginia and in the county in which the subject firm resides has declined in the relevant time period and that the employment in the chemical industry is projected to decrease in the local (state and county) economies.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that the requirements of Section 246 of the Trade Act of 1974, as amended, have been met for workers at the subject firm.

In accordance with the provisions of the Act, I make the following revised determination:

All workers of Union Carbide Corporation, a Subsidiary of Dow Chemical Company, West Virginia Operations, South Charleston Technology Park, South Charleston, West Virginia, who became totally or partially separated from employment on or after May 5, 2007 through July 18, 2010, are 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 September 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–21321 Filed 9–11–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[SGA/DFA–PY–08–03]

Solicitation for Grant Applications (SGA); Prisoner Re-entry Initiative Grants

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice: Amendment to SGA/DFA–PY–08–03.

SUMMARY: The Employment and Training Administration published a document in the **Federal Register** on September 5, 2008, announcing the availability of funds and solicitation for grant applications (SGA) under the Prisoner Re-entry Initiative to be awarded through a competitive process. This notice is the first amendment to the SGA and it amends the Key Dates and Part VII—Agency Contacts.

FOR FURTHER INFORMATION CONTACT: James Stockton, Grant Officer, Division of Federal Assistance, at (202) 693–3335.

Supplementary Information Correction: In the **Federal Register** of September 5, 2008, in FR Doc. EB–20570, the closing date for receipt of applications under this announcement is November 4, 2008. Part VII—Agency Contacts, is amended to provide the correct telephone number for the Grants Management Specialist as follows: For further information regarding this SGA, please contact Jeannette Flowers, Grants Management Specialist, Division of Federal Assistance, at (202) 693–3322.

DATES: *Effective Date:* This notice is effective September 12, 2008.

Signed at Washington, DC, this 8th day of September 2008.

James W. Stockton,

Grant Officer.

[FR Doc. E8–21316 Filed 9–11–08; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,979]

Emerson Power Transmission, a Subsidiary of Emerson Electric; Aurora, IL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 4, 2008, in response to a petition filed by workers at Emerson Power Transmission, a subsidiary of Emerson Electric, Aurora, Illinois.

This petitioner group of workers is covered by an active certification, (TA–W–62,689) which expires on February 27, 2010. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 5th day of September 2008.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–21318 Filed 9–11–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,721C]

Hutchinson Fts, Inc.; Byrdstown, TN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on July 21, 2008 in response to a petition filed by a company official on behalf of workers of Hutchinson FTS, Inc., Byrdstown, Tennessee.

The petitioning group of workers is covered by an active certification (TA–W–60,013) which expires on September 26, 2008. Consequently, further investigation in this case would serve

no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 2nd day of September 2008.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E8–21323 Filed 9–11–08; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (08–063)]

Notice of Information Collection Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection under OMB review.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Sharon Mar, Office of Information and Regulatory Affairs; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dr. Walter Kit, NASA Clearance Officer, NASA Headquarters, 300 E Street, SW., JE0000, Washington, DC 20546, (202) 358–1350, *Walter.Kit-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

To ensure accurate reporting of Government-owned, contractor-held property on the financial statements and to provide information necessary for effective property management, NASA obtains summary data annually from the official Government property records maintained by its contractors, on the NASA Form 1018, as of the end of the fiscal year.

II. Method of Collection

Contractors are only required to transcribe summary information from the records they maintain on the NASA Form 1018. Beginning with reporting for FY 1999, NASA implemented the NF 1018 Electronic Submission System (NESS), a Web-based system, for NF 1018 reporting.

III. Data

Title: NASA Property in the Custody of Contractors.

OMB Number: 2700–0017.

Type of review: Revision of currently approved collection.

Affected Public: Business or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 1092.

Estimated Time per Response: Variable.

Estimated Total Annual Burden Hours: 9805 hours.

Estimated Total Annual Cost: $0.00.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Walter Kit,

NASA Clearance Officer.

[FR Doc. E8–21351 Filed 9–11–08; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (08–059)]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Sharon Mar, Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dr. Walter Kit, NASA Clearance Officer, NASA Headquarters, 300 E Street, SW., JB000, Washington, DC 20546, (202) 358–1350, *Walter.Kit-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection, JSC Form 1625, has to do with operational groups at JSC and other NASA centers, NASA contractors, subcontractors, and vendors to provide descriptions of radioactive items used in or supplied for human space missions or approved JSC projects. The form also provides records of accountability, responsibility, transfer, location, and disposition of these items.

II. Method of Collection

The form, which is now available electronically, accompanies a physical shipment of nuclear materials and requires recipients to confirm shipment receipt. Converting the form to an electronic format and making it available on line has significantly reduced the burden of information gathering for respondents.

III. Data

Title: Radioactive Material Transfer Receipt.

OMB Number: 2700–0007.

Type of review: Revision of currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 25.

Estimated Total Annual Burden Hours: 10.

Estimated Total Annual Cost to Government: $10,000.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance

of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Walter Kit,

NASA Clearance Officer.

[FR Doc. E8–21354 Filed 9–11–08; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (08–060)]

Notice of Information Collection Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection under OMB review.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Sharon Mar, Office of Information and Regulatory Affairs, Room 10236, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dr. Walter Kit, NASA Clearance Officer, NASA Headquarters, 300 E Street, SW., JE0000, Washington, DC 20546, (202) 358–1350, *Walter.Kit-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Recordkeeping and reporting are required to ensure proper accounting of Federal funds and property provided under grants and cooperative agreements with state and local governments.

II. Method of Collection

Electronic funds transfer is used for payment under Treasury guidance. Submission of almost all information required under grants or cooperative agreements with state and local governments, including property, financial, performance, and financial reports, is submitted electronically.

III. Data

Title: Grants and Cooperative Agreements with State and Local Governments.

OMB Number: 2700–0093.

Type of review: Revision of currently approved collection.

Affected Public: State, Local or Tribal Governments.

Estimated Number of Respondents: 70.

Estimated Time per Response: 10 hours for recordkeeping and 1 hour for each of different report types.

Estimated Total Annual Burden Hours: 1,470 hours.

Estimated Total Annual Cost: $0.00.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Walter Kit,

NASA Clearance Officer.

[FR Doc. E8–21355 Filed 9–11–08; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (08–061)]

Notice of Information Collection Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection under OMB review.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Sharon Mar; Office of Information and Regulatory Affairs; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dr. Walter Kit, NASA PRA Officer, NASA Headquarters, 300 E Street, SW., JE0000, Washington, DC 20546, (202) 358–1350, *Walter.Kit-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection helps to ensure that engineering changes to contracts are made quickly and in a cost effective manner. Proposals supporting such change orders contain detailed information to obtain best goods and services for the best prices.

II. Method of Collection

NASA does not prescribe a format for submission, though most contractors have cost collection systems which are used for proposal preparation. NASA encourages the use of computer technology for preparing proposals and submission.

III. Data

Title: Modifications Related to Engineering Change Proposals.

OMB Number: 2700–0054.

Type of review: Revision of currently approved collection.

Affected Public: Business or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 150.

Estimated Time per Response: 30 hours.

Estimated Total Annual Burden Hours: 4500 hours.

Estimated Total Annual Cost: $0.00.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Walter Kit,

NASA Clearance Officer.

[FR Doc. E8–21356 Filed 9–11–08; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (08–058)]

NASA Advisory Council; Science Committee; Planetary Science Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: The National Aeronautics and Space Administration (NASA) announces a meeting of the Planetary Science Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The Meeting will be held for the purpose of soliciting from the scientific community and other persons scientific and technical information relevant to program planning.

DATES: Thursday, October 2, 2008, 8 a.m. to 6 p.m., and Friday, October 3, 2008, 8 a.m. to 3 p.m.

ADDRESSES: NASA Headquarters, 300 E Street, SW., Room 9H40, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452, fax (202) 358–4118, or *mnorris@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Planetary Science Division Update
—Mars Exploration Program Update
—Briefing on Results of Venus Science and Technology Definition Team (STDT)
—Status and Programmatic Needs for Aerocapture
—Update on Constellation Systems

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information no less than 5 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizenship can provide identifying information 3 working days in advance by contacting Marian Norris via e-mail at *mnorris@nasa.gov* or by telephone at (202) 358–4452.

Dated: September 8, 2008.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E8–21352 Filed 9–11–08; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Environmental Research and Education; 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 Environmental Research and Education (9487).

Dates: October 15, 2008, 9 a.m.–5 p.m. and October 16, 2008, 9 a.m.–1 p.m.

Place: Stafford I, Room 1235, National Science Foundation, 4201 Wilson Blvd., Arlington, Virginia 22230.

Type of Meeting: Open.

Contact Person: Alan Tessier, National Science Foundation, Suite 635, 4201 Wilson Blvd., Arlington, Virginia 22230. Phone 703–292–7198.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for environmental research and education.

Agenda

October 15

Introduction of New Members.
Update on recent NSF environmental activities.
Presentation by Dr. Simon Levin, Princeton University.
Discussion with Dr. Jeannette Wing, Assistant Director CISE.
Discussion of the Committee's draft ''Green Report.''

October 16

Update on Engineering Directorate programs in sustainability.
Discussion of Future AC/ERE activities.

Dated: September 9, 2008.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E8–21245 Filed 9–11–08; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

President's Committee on the National Medal of Science; 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: President's Committee on the National Medal of Science (1182).

Date and Time: Monday, October 27, 2008, 8:30 a.m.–1:30 p.m.

Place: Room 375, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Ms. Mayra Montrose, Program Manager, Room 1282, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–4757.

Purpose of Meeting: To provide advice and recommendations to the President in the selection of the 2008 National Medal of Science recipients.

Agenda: To review and evaluate nominations as part of the selection process for awards.

Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy.

These matters are exempt under 5 U.S.C. 552b(c)(6) of the Government in the Sunshine Act.

Dated: September 9, 2008.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E8–21244 Filed 9–11–08; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–08502]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment Request To Revert to Operating Status From Restoration and Decommissioning Status, Cogema Mining Inc., Christensen and Irigaray Ranch Facilities, Johnson and Campbell Counties, WY

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: Ron C. Linton, Project Manager, Uranium Recovery Licensing Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. *Telephone:* 301–415–7777; *fax number:* 301–415–5369; *e-mail: ron.linton@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is issuing a license amendment to source Materials License No. SUA–1341 issued to Cogema Mining, Inc. (COGEMA) (the licensee), to authorize a return to uranium production operations and the recovery of uranium by in situ leach (ISL) extraction techniques as previously licensed by the NRC at its Christensen and Irigaray Ranch Facilities, Johnson and Campbell Counties, Wyoming. NRC has prepared an Environmental Assessment (EA) in support of this amendment in accordance with the requirements of 10 CFR Part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

II. EA Summary

On April 3, 2007, COGEMA requested that NRC approve an amendment to authorize a return to uranium production operations and the recovery of uranium by ISL extraction techniques at the licensee's Christensen and Irigaray Ranch facilities in Johnson and Campbell Counties, Wyoming. Specifically, COGEMA's source materials license will be amended to allow for the resumption of uranium recovery operations by the injection of lixiviant with license conditions that are essentially the same as those contained in the last operational license, SUA–1341, Amendment 3. COGEMA's request for the proposed amendment was noticed in the **Federal Register** on March 17, 2008, with a notice of an opportunity to request a hearing. The **Federal Register** notice of an opportunity to request a hearing was also posted on NRC's public Web site under ''Hearing Opportunities and License Applications.'' No hearing requests were received.

The staff has prepared the EA in support of the proposed license amendment. The NRC staff found that the type of impacts would be similar to those that already exist and that have been evaluated in previous environmental reviews. The staff reviewed impacts to land use, transportation, geology and soils, ecology, air quality, noise, cultural and historical resources, visual and scenic resources, socioeconomic resources, public and occupational health, and waste management. All impacts were found to be low with the exception of some moderate short-term visual impacts to the Pumpkin Buttes which have been determined by the Bureau of Land Management to be a Native American traditional cultural property.

III. Finding of No Significant Impact

On the basis of the EA, NRC has concluded that there are no significant environmental impacts from the proposed amendment, and that preparation of an environmental impact statement is not warranted.

IV. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are: ML071020274, Letter from T. Hardgrove, COGEMA Mining, Re: Request for Amendment to License SUA–1341 for Restart of Irigaray/Christensen Ranch Facilities; ML082110026, Environmental Assessment Regarding the License Amendment Request to Return to Operating Status from Decommissioning Status Cogema Mining, Inc. Irigaray and Christensen Ranch Projects Wyoming. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr.resource@nrc.gov.*

These documents may also be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 8th day of September 2008.

For The Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning and Uranium Recovery, Licensing Directorate, Division of Waste Management, and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E8–21275 Filed 9–11–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–04794]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 21–01443–06, for Unrestricted Release of the Warner-Lambert Facility in Ann Arbor, MI

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: William Snell, Senior Health Physicist, Decommissioning Branch, Division of Nuclear Materials Safety, Region III, U.S. Nuclear Regulatory Commission, 2443 Warrenville Road, Lisle, Illinois 60532; telephone: (630) 829–9871; *fax* number: (630) 515–1259; or by *e-mail:* at *william.snell@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) proposing to terminate Byproduct Materials License No. 21–01443–06. This license is held by Warner-Lambert, LLC (the Licensee), which is a wholly owned subsidiary of Pfizer, Inc., for its facilities located at 2800 Plymouth Road and 1600 Huron Parkway in Ann Arbor, Michigan (the Facilities). Termination of the license would authorize release of the Facilities for unrestricted use. The Licensee requested this action in a letter dated June 3, 2008 (ADAMS Accession No. ML081610504). The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10 Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The license will be terminated following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's June 3, 2008, license termination request, resulting in release of the Facilities for unrestricted use. License No. 21–01443–06 was issued on April 20, 1959, pursuant to 10 CFR Part 30, and has been amended periodically since that time. The license authorizes the use of byproduct materials for conducting research and development.

The Facilities comprise a campus of research laboratories and offices of more than two million square feet of floor area on approximately 50 acres of property located in a commercial and residential area. The Licensee ceased using licensed materials in the Facilities in May 2007, and has conducted final status surveys of the Facilities. The results of these surveys along with other supporting information were provided to the NRC to demonstrate that the criteria in Subpart E of 10 CFR Part 20 for unrestricted release have been met.

Need for the Proposed Action

The licensee has ceased conducting licensed activities at the Facilities, and seeks the unrestricted use of its Facilities.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facilities shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: hydrogen-3, carbon-14, sodium-22, chlorine-36, calcium-45, calcium-47, iron-55, cobalt-60, nickel-63, zinc-65, strontium-90, antimony-125, barium-133, and cesium-137. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facilities affected by these radionuclides.

The Licensee conducted onsite final status surveys on the Facilities from February 24 to April 23, 2008. The final status survey report was attached to the Licensee's amendment request dated June 3, 2008. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed termination of the license and release of the Facilities for unrestricted use is in compliance with 10 CFR 20. Based on its review, the staff considered the impact of the residual radioactivity at the Facilities and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d) requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facilities meet the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the Michigan Department of Environmental Quality (DEQ) for review on July 23, 2008. By response dated July 24, 2008, the State agreed with the conclusions of the EA, and otherwise provided no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required

under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. Carol Lentz, Pfizer, Inc., letter to Patricia Pelke, U.S. Nuclear Regulatory Commission, June 3, 2008 (ADAMS Accession No. ML081610504);

2. Title 10 Code of Federal Regulations, Part 20, Subpart E, ''Radiological Criteria for License Termination'';

3. Title 10 Code of Federal Regulations, Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions'';

4. NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'';

5. NUREG–1757, ''Consolidated NMSS Decommissioning Guidance.''

6. By response dated July 24, 2008, the State had no comments.

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Lisle, Illinois, this 29th day of August 2008.

For the Nuclear Regulatory Commission.

Christine Lipa,

Chief, Decommissioning Branch, Division of Nuclear Materials Safety, Region III.

[FR Doc. E8–21274 Filed 9–11–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443–LA; ASLBP No. 08–872–02–LA–BD01]

FPL Energy Seabrook LLC; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and the Commission's regulations, *see* 10 CFR 2.104, 2.300, 2.303, 2.309, 2.311, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

FPL Energy Seabrook LLC

(Seabrook Station, Unit 1)

This proceeding involves a license amendment request from FPL Energy Seabrook LLC proposing a revision to the Technical Specifications for Seabrook Station, Unit 1 in Rockingham County, New Hampshire. In response to an August 26, 2008 Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing (73 FR 50,356, 50,361), a request for hearing has been submitted by Thomas Saporito on behalf of himself and Saporito Energy Consultants.

The Board is comprised of the following administrative judges:

William J. Froehlich, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

E. Roy Hawkens, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Thomas S. Elleman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007 (72 FR 49,139).

Issued at Rockville, Maryland, this 8th day of September 2008.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. E8–21278 Filed 9–11–08; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Notice Regarding the 2008 Annual Review for Acceptance of Product and Country Practices Petitions

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) received petitions in connection with the 2008 GSP Annual Review to modify the list of products that are eligible for duty-free treatment under the GSP program and to modify the GSP status of certain GSP beneficiary developing countries because of country practices. This notice announces the product petitions, other than those requesting competitive need limitation (CNL) waivers, and country practice petitions accepted in previous GSP annual reviews that continue to be under review in the 2008 GSP Annual Review, and sets forth the schedule for comment and public hearings on these petitions, for requesting participation in the hearings, and for submitting pre-hearing and post-hearing briefs. The list of accepted petitions is available at: *http://www.ustr.gov/Trade_Development/Preference_Programs/GSP/Section_Index.html*. [2008 Annual review].

FOR FURTHER INFORMATION CONTACT: Regina Teeter, GSP Program, Office of the United States Trade Representative, 1724 F Street, NW., Room F–214, Washington, DC 20508. The telephone number is (202) 395–6971, fax number is (202) 395–9481, and e-mail address is *Regina_Teeter@ustr.eop.gov.*

DATES: The GSP regulations (15 CFR Part 2007) provide the schedule of dates for conducting an annual review unless otherwise specified in a **Federal Register** notice. The schedule for the 2008 annual review is set forth below. Notification of any other changes will be given in the **Federal Register**.

October 3, 2008—Due date for submission of pre-hearing briefs and requests to appear at the GSP

Subcommittee Public Hearing that include the name, address, telephone, fax, email address and organization of witnesses for accepted product petitions.

October 10, 2008—Availability of January through August 2008 data on the U.S. International Trade Commission (USITC) Web site (*http://dataweb.usitc.gov*). The **Federal Register** notice announcing the availability of eight months of import statistics will not include a ''warning list'' of products that may exceed statutory competitive need limitations (CNLs). Each interested party is responsible for conducting its own review of 2008 import data with regard to the possible application of GSP CNLs and submission of a petition to waive the CNLs.

October 20, 2008—GSP Subcommittee Public Hearing on all product petitions accepted for the 2008 GSP Annual Review in Rooms 1 and 2, 1724 F St., NW., Washington, DC 20508, beginning at 9:30 a.m.

November 3, 2008—Due date for submission of post-hearing briefs.

November 13, 2008—Due date for submission of new petitions to grant waivers to CNLs for products exceeding the CNLs in 2008.

December 2008—USITC scheduled to publish report on products for product petitions in the 2008 GSP Annual Review. Comments on USITC report on these products due 10 calendar days after USITC date of publication.

June 30, 2009—Modifications to the list of articles eligible for duty-free treatment under the GSP resulting from the 2008 Annual Review will be announced on or about June 30, 2009, in the **Federal Register**, and any changes will take effect on the effective date announced.

SUPPLEMENTARY INFORMATION: The GSP provides for the duty-free importation of designated articles when imported from designated beneficiary developing countries. The GSP is authorized by title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*), as amended (the ''1974 Act''), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

A. Petitions Requesting Modifications of Product Eligibility

In a **Federal Register** notice dated May 15, 2008, USTR announced that the deadline for the filing of product petitions, other than those requesting waivers of ''competitive need limitations'' (CNLs), and country practice petitions for the 2008 GSP Annual Review was June 18, 2008 (73 FR 28174). The deadline for the filing of product petitions requesting waivers of the CNLs was announced to be November 13, 2008. The product petitions received have requested changes in the list of GSP-eligible products by adding new products and by removing products from specific GSP-eligible countries.

The interagency GSP Subcommittee of the Trade Policy Staff Committee (TPSC) has reviewed the product petitions, and the TPSC has decided to accept for review the product petitions listed in ''List of Petitions Accepted in the 2008 GSP Annual Review'' posted on the USTR Web site. That list sets forth, for each type of change requested: the case number, the Harmonized Tariff Schedule of the United States (HTS) subheading number, a brief description of the product (*see* the HTS for an authoritative description available on the U.S. International Trade Commission (USITC) Web site (*http://www.usitc.gov/tata/hts/*)), and the petitioner for each petition included in this review. Acceptance of a petition for review does not indicate any opinion with respect to the disposition on the merits of the petition. Acceptance indicates only that the listed petitions have been found eligible for review by the TPSC and that such review will take place.

B. Petitions for Review Regarding Country Practices

Pursuant to 15 CFR 2007.0(b), the GSP Subcommittee of the Trade Policy Staff Committee (TPSC) has recommended, and the TPSC has continued the review of several country practice petitions (*see* ''List of Petitions Accepted in the 2008 GSP Annual Review'' posted on the USTR Web site). The decision regarding whether to accept the new country practice petitions submitted for review in the 2008 GSP Annual Review is planned for January 2009. A **Federal Register** notice will be published announcing the decision.

Opportunities for Public Comment and Inspection of Comments

The GSP Subcommittee of the TPSC invites comments in support of or in opposition to any petition which has been accepted thus far for the 2008 GSP Annual Review. Submissions should comply with 15 CFR Part 2007, except as modified below. All submissions should identify the subject article(s) in terms of the case number and eight digit HTSUS subheading number, if applicable, as shown in the ''List of Petitions Accepted in the 2008 GSP Annual Review'' available at: *http://www.ustr.gov/Trade_Development/Preference_Programs/GSP/Section_Index.html* [2008 Annual Review].

Requirements for Submissions

Comments must be submitted, in English, to the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee (TPSC) on the deadlines set forth in this notice.

In order to facilitate prompt processing of submissions, USTR strongly recommends that comments be set out in digital files attached to e-mails transmitted to the following address: *FR0807@ustr.eop.gov* (**Note:** The digit before the number ''8'' in the email address is the number ''zero'', not a letter. If you are unable to provide comments by e-mail, please contact Regina Teeter at USTR's GSP Office at (202) 395–6971 to arrange for an alternative method of transmission. For security reasons, hand-delivered submissions will not be accepted. Comments should be provided in a single copy and must not exceed 30 single-spaced standard letter-size pages in 12-point type and three megabytes as a digital file attached to an e-mail transmission. E-mails should use the following subject line: ''2008 GSP Annual Review'' followed by the Case Number and, if a product petition, the eight digit HTSUS subheading number found in the ''List of Petitions Accepted in the 2008 GSP Annual Review'' (for example, 2008–05 7202.99.20) and, as appropriate ''Written Comments'', ''Notice of Intent To Testify'', ''Pre-hearing brief'', ''Post-hearing brief'' or ''Comments on USITC Advice''. (For example, an e-mail subject line might read ''2008–05 7202.99.20 Written Comments''.) The transmittal message or cover letter accompanying a submission must be set out exclusively in the digital file attached to the e-mail transmission—not in the message portion of the e-mail—and must include the sender's name, organization name, address, telephone and fax numbers, and e-mail address.

Digital files must be submitted in one of the following formats: WordPerfect (.WPD), Adobe (.PDF), MSWord (.DOC), or text (.TXT) files. Comments may not be submitted as electronic image files or contain embedded images, e.g., ''.JPG'', ''.TIF'', ''.BMP'', or ''.GIF''. Spreadsheet data may be submitted as Excel files, formatted for printing on 8½ x 11 inch paper. To the extent possible, any data accompanying the submission should be included in the same file as the submission itself, and not in a separate file.

If the submission contains business confidential information that the submitter wishes to protect from public disclosure, the confidential version must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of each page. In addition, the submission must be accompanied by a non-confidential version that indicates, with asterisks, where confidential information was redacted or deleted. The top and bottom of each page of the non-confidential version must be marked either ''PUBLIC VERSION'' or ''NON–CONFIDENTIAL''. Business confidential comments that are submitted without the required markings or are not accompanied by a properly marked non-confidential version as set forth above may not be accepted or may be treated as public documents.

The digital file name assigned to any business confidential version of a submission 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 person (government, company, union, association, etc.) making the submission.

Public versions of all documents relating to this review will be available for review approximately two weeks after the relevant 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.

Notice of Public Hearing

A hearing will be held by the GSP Subcommittee of the TPSC on October 20, 2008, for product petitions accepted for the 2008 GSP Annual Review (i.e., for product petitions other than those requesting CNL waivers) beginning at 9:30 a.m. at the Office of the U.S. Trade Representative, Rooms 1 and 2, 1724 F St., NW., Washington, DC 20508. The hearing will be open to the public and a transcript of the hearing will be made available for public inspection or can be purchased from the reporting company. No electronic media coverage will be allowed.

All interested parties wishing to make an oral presentation at the hearing must submit, following the above ''Requirements for Submissions'', the name, address, telephone number, facsimile number, and e-mail address (if available), of the witness(es) representing their organization to Marideth Sandler, Executive Director of the GSP Program by 5 p.m., October 3, 2008. Requests to present oral testimony in connection with the public hearing must be accompanied by a written brief or statement, in English, and also must be received by 5 p.m., October 3, 2008. Oral testimony before the GSP Subcommittee will be limited to five-minute presentations that summarize or supplement information contained in briefs or statements submitted for the record. Post-hearing briefs or statements will be accepted if they conform with the regulations cited above and are submitted, in English, by 5 p.m., November 3, 2008. Parties not wishing to appear at the public hearing may submit pre-hearing briefs or statements, in English, by 5 p.m., October 3, 2008, and post-hearing written briefs or statements, in English, by 5 p.m., November 3, 2008.

With respect to petitions to add or remove articles from the ''List of Product Petitions Accepted in the 2008 GSP Annual Review,'' and in accordance with sections 503(d)(1)(A) of the 1974 Act and the authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, the U.S. Trade Representative has requested that the USITC provide its advice on the probable economic effect of such additions or removals on U.S. industries producing like or directly competitive articles and on consumers. Comments by interested persons on the USITC Report prepared as part of the product review other than those requesting CNL waivers should be submitted by 5 p.m., 10 calendar days after the date of USITC publication of its report.

Marideth Sandler,

Executive Director, Generalized System of Preferences (GSP) Program, Office of the U.S. Trade Representative.

[FR Doc. E8–21341 Filed 9–11–08; 8:45 am]

BILLING CODE 3190–W8–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) to request an extension of a currently approved collection of information: 3220–0123, Student Beneficiary Monitoring. Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if RRB and OIRA receive them within 30 days of publication date.

Student Beneficiary Monitoring; OMB 3220–0123

Under provisions of the Railroad Retirement Act (RRA), there are two types of benefits whose payment is based upon the status of a child being in full-time elementary or secondary school attendance at age 18–19; a survivor child's annuity benefit under Section 2(d)(2)(iii) and an increase in the employee retirement annuity under the Special Guaranty computation as prescribed in section 3(f)(3).

The survivor student annuity is usually paid by direct deposit at a financial institution to the student's checking or savings account or a joint bank account with the parent. The requirements for eligibility as a student are prescribed in 20 CFR 216.74, and include students in independent study or home schooling.

The RRB requires evidence of full-time school attendance in order to determine that a child is entitled to student benefits. The RRB utilizes the following forms to conduct its student monitoring program. Form G–315, Student Questionnaire, obtains certification of a student's full-time school attendance. It also obtains information on a student's marital status, Social Security benefits, and employment which are needed to determine entitlement or continued entitlement to benefits under the RRA. Completion is required to obtain benefits. Form G–315a, Statement of School Official, is used to obtain verification from a school that a student attends school full-time and provides their expected graduation date. Completion is voluntary. However, failure to do so may result in nonpayment of RRB benefits to the student. Form G–315a.1, School Officials Notice of Cessation of Full-Time Attendance, is used by a school to

notify the RRB that a student has ceased full-time school attendance. Completion is voluntary.

The RRB proposes no changes to the forms. One response is completed by each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (73 FR 22183 on April 24, 2008) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Student Beneficiary Monitoring.

OMB Control Number: OMB 3220–0123.

Form(s) submitted: G–315, G–315a, G–315a.1.

Type of request: Extension of a currently approved collection of information.

Affected public: Individuals or households, Business or other for-profit, Non-profit institutions.

Abstract: Under the Railroad Retirement Act (RRA), a student benefit is not payable if the student ceases full-time school attendance, marries, works in the railroad industry, has excessive earnings or attains the upper age limit under the RRA. The report obtains information to be used in determining if benefits should cease or be reduced.

Changes Proposed: The RRB proposes no changes to the forms in the collection.

The burden estimate for the ICR is as follows:

Estimated Completion Time for Form(s): Form G–315 is estimated at 15 minutes per response; Form G–315a is estimated at 3 minutes per response and Form G–315a.1 is estimated at 2 minutes per response.

Estimated annual number of respondents: 900.

Total annual responses: 900.

Total annual reporting hours: 217.

Additional Information or Comments: Copies of the form and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer at (312–751–3363) or *Charles.Mierzwa@rrb.gov*.

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E8–21297 Filed 9–11–08; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58466; File No. SR–AMEX–2008–53]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change Related to Amendments to Rule 925 (Confirmations) and Rule 921 (Opening of Accounts)

September 5, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 26, 2008, the American Stock Exchange LLC (the ''Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Amex Rule 925 to clarify that written confirmations relating to options transactions are not required to specify the options exchange or exchanges on which such options contracts were executed. The Exchange further proposes to amend Amex Rule 921 to permit a General Securities Sales Supervisor to approve the opening of an options account. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room and *http://www.amex.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

a. Options Confirmation Rule (Rule 925)

Amex Rule 925 requires that every member and member organization promptly furnish to each customer a written confirmation of each options transaction for such customer's account. This confirmation is required to disclose the type of option, the underlying security, the expiration month, the exercise price, the number of option contracts, the premium, commissions, the transaction and settlement dates, whether the transaction was a purchase or a sale (writing) transaction, whether the transaction was an opening or a closing transaction, and whether the transaction was effected on a principal or agency basis. In addition, Rule 925 requires that each confirmation, by appropriate symbols, must distinguish between Exchange option transactions and other transactions in option contracts and between such transactions and transactions in other options. Rule 925 has been interpreted over the years by market participants to require that written confirmations relating to options transactions specify the options exchange or exchanges on which such options contracts were executed. This proposal seeks to clarify that Rule 925 does not require the name of the options exchange or exchanges on which an options contract is executed.

Prior to August 1999, an options class was typically listed on only one options exchange. In August 1999, the options exchanges began to multiply-list options classes that were previously listed on only one exchange. In October 1999, the Commission stated that it believed a linkage among options markets would benefit investors by increasing competition among markets (and market participants) to provide the best execution of customer orders.[3] Subsequently, the Commission directed the options exchanges to act jointly in discussing, developing, and submitting for Commission approval an intermarket linkage plan for multiply-traded options. On July 28, 2000, the Commission approved the Plan for the Purpose of Creating and Operating an Intermarket Options Market Linkage (the ''Options Linkage Plan'' or ''Linkage Plan'') submitted by the Amex, the Chicago Board Options Exchange, Inc. and the International Securities

[3] *See* Exchange Act Release No. 42029 (Oct. 19, 1999), 64 FR 57674 (Oct. 26, 1999).

Exchange, Inc.[4] The Philadelphia Stock Exchange, Inc., and the Pacific Stock Exchange agreed to participate in the Options Linkage Plan in November 2000.[5] As a result of the introduction of multiple trading of options and the implementation of the Linkage Plan, the contracts in a customer options order could be executed on more than one options exchange and the significance of the options exchange or exchanges that execute a particular options transaction has diminished significantly.[6]

Under the duty of best execution, Amex members are required to exercise diligence to obtain the best price when routing customer options trades for execution. The Exchange, as well as the other members of the Options Self Regulatory Council (the ''OSRC''),[7] believes that in light of the existing best execution and disclosure requirements, the usefulness of including on an options confirmation the name of the options exchange or exchanges on which an options transaction was effected does not outweigh the operational difficulties of capturing the information given the multiple trading of options and the application of the Options Linkage Plan industry-wide. Consequently, the proposal would amend Amex Rule 925 to make clear that written confirmations relating to options transactions are not required to specify the options exchange or exchanges on which such options contracts were executed.

The Exchange has worked with the other members of the OSRC in developing these proposed rule changes. Each member of the OSRC is expected to similarly file rule proposals to either delete the requirement that the written options confirmation disclose the name of the options exchange or exchanges on which the options transaction was executed, or clarify that no such requirement exists.

b. Options Account Opening Rule (Rule 921)

Amex Rule 921 governs the opening of options accounts by members and member organizations. Specifically, Rule 921(c), relating to ''Diligence in Opening Account,'' provides that in approving a customer's account for options transactions, a member or member organization shall exercise due diligence to learn the essential facts as to the customer and his investment objectives and financial situation, and shall make a record of such information (which shall be retained in accordance with Amex Rule 922). Based on such information, the branch manager or other registered options principal (''ROP'') is required to approve in writing the customer's account for options transactions. If the branch manager is not a ROP, the branch manager's approval of the account must be confirmed within a reasonable time by a ROP. The Exchange and the other members of the ORSC believe that an amendment to the current options account opening procedures is warranted so that a general securities sales supervisor, in addition to a ROP, is able to open an options account without the approval of a ROP. The other members of the ORSC are also expected to file similar amendments to their options account opening rules.

The Exchange believes that permitting a general securities sales supervisor to approve the opening of an options account would be appropriate and would properly reflect the maturity of the options market and the manner in which the uses of options are more integrated with other securities in the implementation of investment strategies.[8] In particular, the Exchange believes that the proposed amendment to Rule 921 would further permit member firms to integrate their options activities into their overall supervisory and compliance structures that monitor all securities products.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Exchange Act,[9] in general, and furthers the objectives of Section 6(b)(5),[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest, by clarifying options confirmation and account opening procedure rules to better reflect the realities of the modern options market and the compliance and regulatory structures adopted by firms. The Exchange believes that the proposal is consistent with Section 6(b)(5) Exchange Act because the proposed amendments to Amex Rules 925 and 921 better reflect the manner in which standardized options are listed and traded on the options exchanges and integrated into firms' general securities supervision and compliance programs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will (A) by order approve such proposed rule change, or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange 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

[4] *See* Exchange Act Release No. 43086 (Jul. 28, 2000), 65 FR 48023 (Aug. 4, 2000).

[5] *See* Exchange Act Release Nos. 43573 (Nov. 16, 2000), 65 FR 70850 (Nov. 28, 2000) and 43574 (Nov. 16, 2000), 65 FR 70851 (Nov. 28, 2000) (approval order).

[6] Modifications to this paragraph discussed in telephone conference between Jeffrey P. Burns, Vice-President & Associate General Counsel, American Stock Exchange LLC, and Max Welsh, Special Counsel, Division of Trading and Markets, Securities and Exchange Commission, on August 7, 2008.

[7] The ORSC consists of the options exchanges and the Financial Industry Regulatory Authority, Inc. (''FINRA'').

[8] The Commission recently approved the elimination of the Senior Registered Options Principal (''SROP'') and Compliance Registered Options Principal (''CROP'') supervisory categories, permitting member firms to supervise their options activities through their overall supervisory and compliance programs that monitor all other securities products. *See* Exchange Act Release No. 57738 (April 29, 2008), 73 FR 25805 (May 7, 2008) (approval order).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

Number SR–AMEX–2008–53 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–AMEX–2008–53. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–AMEX–2008–53 and should be submitted on or before October 3, 2008.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–21165 Filed 9–11–08; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58456; File No. SR–CBOE–2008–93]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Temporary Membership Status and Interim Trading Permit Access Fees

September 3, 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 August 29, 2008, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to adjust (1) the monthly access fee for persons granted temporary CBOE membership status (''Temporary Members'') pursuant to Interpretation and Policy .02 under CBOE Rule 3.19 (''Rule 3.19.02'') and (2) the monthly access fee for Interim Trading Permit (''ITP'') holders under CBOE Rule 3.27. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The current access fee for Temporary Members under Rule 3.19.02[3] and the current access fee for ITP holders under Rule 3.27[4] are both $10,653 per month. Both access fees are currently set at the indicative lease rate (as defined below) for August 2008. The Exchange proposes to adjust both access fees effective at the beginning of September 2008 to be equal to the indicative lease rate for September 2008 (which is $10,800). Specifically, the Exchange proposes to revise both the Temporary Member access fee and the ITP access fee to be $10,800 per month commencing on September 1, 2008.

The indicative lease rate is defined under Rule 3.27(b) as the highest clearing firm floating monthly rate[5] of the CBOE Clearing Members that assist in facilitating at least 10% of the CBOE transferable membership leases.[6] The Exchange determined the indicative lease rate for September 2008 by polling each of these Clearing Members and obtaining the clearing firm floating monthly rate designated by each of these Clearing Members for that month.

The Exchange used the same process to set the proposed Temporary Member and ITP access fees that it used to set the current Temporary Member and ITP access fees. The only difference is that the Exchange used clearing firm floating monthly rate information for the month of September 2008 to set the proposed access fees (instead of clearing firm floating monthly rate information for the month of August 2008 as was used to set the current access fees) in order to take into account changes in clearing firm floating monthly rates for the month of September 2008.

The Exchange believes that the process used to set the proposed

[3] *See* Securities Exchange Act Release No. 56458 (September 18, 2007), 72 FR 54309 (September 24, 2007) (SR–CBOE–2007–107) for a description of the Temporary Membership status under Rule 3.19.02.

[4] *See* Securities Exchange Act Release No. 58178 (July 17, 2008), 73 FR 42634 (July 22, 2008) (SR–CBOE–2008–40) for a description of the Interim Trading Permits under Rule 3.27.

[5] Rule 3.27(b) defines the clearing firm floating monthly rate as the floating monthly rate that a Clearing Member designates, in connection with transferable membership leases that the Clearing Member assisted in facilitating, for leases that utilize that monthly rate.

[6] The concepts of an indicative lease rate and of a clearing firm floating month rate were previously utilized in the CBOE rule filings that set and adjusted the Temporary Member access fee. Both concepts were also recently codified in Rule 3.27(b) in relation to ITPs.

Temporary Member access fee and the proposed Temporary Member access fee itself are appropriate for the same reasons set forth in CBOE rule filing SR–CBOE–2008–12 with respect to the original Temporary Member access fee.[7] Similarly, the Exchange believes that the process used to set the proposed ITP access fee and the proposed ITP access fee itself are appropriate for the same reasons set forth in CBOE rule filing SR–CBOE–2008–77 with respect to the original ITP access fee.[8]

Each of the proposed access fees will remain in effect until such time either that the Exchange submits a further rule filing pursuant to Section 19(b)(3)(A)(ii) of the Act[9] to modify the applicable access fee or the applicable status (*i.e.*, the Temporary Membership status or the ITP status) is terminated. Accordingly, the Exchange may, and likely will, further adjust the proposed access fees in the future if the Exchange determines that it would be appropriate to do so taking into consideration lease rates for transferable CBOE memberships prevailing at that time.

The procedural provisions of the CBOE Fee Schedule related to the assessment of each proposed access fee are not proposed to be changed and will remain the same as the current procedural provisions relating to the assessment of that access fee.

2. Statutory Basis

The Exchange believes that 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) of the Act,[11] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and subparagraph (f)(2) of Rule 19b–4[13] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2008–93 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2008–93. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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–CBOE–2008–93 and should be submitted on or before October 3, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–21162 Filed 9–11–08; 8:45 am]

BILLING CODE 8010–01–P

[7] *See* Securities Exchange Act Release No. 57293 (February 8, 2008), 73 FR 8729 (February 14, 2008) (SR–CBOE–2008–12), which established the original Temporary Member access fee, for detail regarding the rationale in support of the original Temporary Member access fee and the process used to set that fee, which is also applicable to this proposed change to the Temporary Member access fee as well.

[8] *See* Securities Exchange Act Release No. 58200 (July 21, 2008), 73 FR 43805 (July 28, 2008) (SR–CBOE–2008–77), which established the original ITP access fee, for detail regarding the rationale in support of the original ITP access fee and the process used to set that fee, which is also applicable to this proposed change to the ITP access fee as well.

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58460; File No. SR–CBOE–2008–90]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Related to Trades in Restricted Classes

September 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 August 29, 2008, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.25, *Nullification and Adjustment of Equity Options Transactions*, and Rule 24.16, *Nullification and Adjustment of Transactions in Index Options, Options on ETFs and Options on HOLDRS*. The Exchange is proposing to amend the rules to permit the nullification of opening transactions that do not satisfy the requirements of Rule 5.4, *Withdrawal of Approval of Underlying Securities*. The Exchange is also proposing to amend Rule 5.4 to make clear that its restrictions on opening transactions, which apply to previously opened options series of a class that no longer meets the then current requirements for trading, apply to both opening purchase transactions and opening sell transactions. Currently the rule text only references opening purchase transactions. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal*), at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend its obvious error rules to permit the nullification of opening transactions in ''restricted series'' that do not satisfy the requirements of Rule 5.4.[3] Currently, when the Exchange makes a determination that trading in a series is restricted pursuant to Rule 5.4, the Exchange notifies the membership of that determination through issuance of a regulatory circular. In addition, the Exchange's systems are programmed to automatically restrict the entry of electronic opening transactions. However, opening orders entered in open outcry are not systemically prevented and, in addition, opening market-maker activity is still permitted both electronically and in open outcry. As a result, it is possible that an opening transaction that does not satisfy the requirements of Rule 5.4 may occur inadvertently.

In order to address these scenarios, the Exchange is proposing to permit the nullification of opening transactions in a Rule 5.4 restricted series provided notification is received by designated personnel in the Exchange's control room from any member or person associated with a member that believes it participated in such transaction within the timeframes prescribed in Rules 6.25(b)(1) and 24.16(b)(1). In addition, absent unusual circumstances, designated personnel in the control room (either on their own motion or upon request of a member) would initiate action within sixty (60) minutes of such a transaction. Such actions would be reviewed and determinations rendered by the senior official in the control room. The Exchange believes it is reasonable and appropriate for the senior official to render these decisions given the simple and objective nature of this particular type of proposed obvious error, which involves opening transactions in a series in which the Exchange has restricted opening trading activity pursuant to Rule 5.4.[4] The Exchange also notes that any determinations rendered by the senior official would be subject to the same review procedures as determinations rendered by Trading Officials.

In connection with this rule change, the Exchange is proposing to clarify that an obvious error rule action may be initiated by a member through contacting either a Trading Official or designated personnel in the control room.[5] Currently the rule simply references Trading Officials, which includes several of the Exchange staff in our control room. Thus, for administrative convenience, we wish to clarify that simply contacting Trading Officials or designated personnel in the control room is sufficient to initiate action. Once either a Trading Official or a control room designee is contacted, all reviews and determinations shall continue to be rendered by the Trading Officials except that, as proposed herein, actions to nullify an opening trade in a restricted series shall be reviewed and determinations rendered by the senior official in the control room.

Lastly, the Exchange is proposing to clarify in the text of Rule 5.4 that the restrictions on opening transactions contained in the rule, as well as the related exceptions, apply to both opening purchases and opening sales in restricted series. Currently, the rule text indicates that the restrictions are applicable only to opening purchase transactions; however, it is the Exchange's intention that the restriction, and related exceptions, should also apply to opening sales. Proposed changes to the rule text make this clear.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the Act[6] and the rules and regulations thereunder and, in particular, the requirements of section 6(b) of the Act.[7] Specifically, the Exchange believes the

[3] In relevant part, Rule 5.4 provides that, whenever the Exchange determines that an underlying security previously approved for Exchange option transactions does not meet the then current requirements for continuance of such approval or for any other reason should no longer be approved, the Exchange will not open for trading any additional series of options of the class covering that underlying security and therefore two floor officials, in consultation with a designated senior executive officer of the Exchange, may prohibit any opening purchase transactions in series of options of that class previously opened (except that (i) opening transactions by Market-Makers executed to accommodate closing transactions of other market participants and (ii) opening transactions by CBOE member organizations to facilitate the closing transactions of public customers executed as crosses pursuant to and in accordance with paragraph (b) or (d) of Rule 6.74, *Crossing Orders*, may be permitted), to the extent it deems such action necessary or appropriate (such series are referred to herein and in the proposed new text in Rules 6.25 and 24.16 as ''restricted series''); provided, however, that where exceptional circumstances have caused an underlying security not to comply with the Exchange's current approval maintenance requirements, regarding number of publicly held shares or publicly held principal amount, number of shareholders, trading volume or market price the Exchange, in the interest of maintaining a fair and orderly market or for the protection of investors, may determine to continue to open additional series of option contracts of the class covering that underlying security.

[4] The senior official in the control room has authority to render other determinations elsewhere in our rules. For example, if the Hybrid Trading System has not opened a series of a class because there is no quote present that complies with the legal width requirements or the opening price is not within an acceptable range, the senior official in the control room may authorize the opening of the affected series where necessary to ensure a fair and orderly market. *See* paragraph (f) of Rule 6.2B, *Hybrid Opening System (''HOSS'')*.

[5] We note that the procedures of other markets currently allow for the initiation of an obvious error review by contacting designated personnel in their respective control rooms. *See, e.g.*, International Securities Exchange (''ISE'') Rule 720, *Obvious and Catastrophic Errors* (which provides that ISE members who believe they participated in a transaction that was an obvious error must notify designated personnel in ISE's market control center to initiate a review).

[6] 15 U.S.C. 78f(b)(1).

[7] 15 U.S.C. 78f(b).

proposed rule change is consistent with the section 6(b)(5)[8] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change would help the Exchange more efficiently address scenarios where an opening transaction that does not satisfy the requirements of Rule 5.4 may occur inadvertently.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2008–90 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2008–90. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2008–90 and should be submitted on or before September 29, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–21164 Filed 9–11–08; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78f(b)(5).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58462; File No. SR–CBOE–2008–91]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Chicago Board Options Exchange, Inc. Amending CBOE Rule 52.3

September 4, 2008.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on August 27, 2008, Chicago Board Options Exchange, Inc. (''CBOE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CBOE Rule 52.3 in order to clarify a circumstance under which the Exchange will commence a trading halt in Derivative Securities Products listed and trading on the Exchange.

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 self-regulatory organization 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 parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In order to provide clarity to CBSX Traders,[4] the Exchange proposes to amend its Rules by adding new CBOE Rule 52.3(d), in order to clarify that the Exchange will halt trading in Derivative Securities Products[5] listed and trading on the CBOE Stock Exchange[6] (''CBSX'') when the Exchange becomes aware that the Net Asset Value (''NAV'') of the Derivative Securities Products (and in the case of managed fund shares, the disclosed portfolio) is not being disseminated to all market participants at the same time.

Specifically, with respect to Derivative Securities Products listed on CBSX for which an NAV (and in the case of managed fund shares, a disclosed portfolio) is disseminated, if the Exchange becomes aware that the NAV (or in the case of managed fund shares, the disclosed portfolio) is not being disseminated to all market participants at the same time, it will halt trading in the affected Derivative Securities Product on CBSX until such time as the NAV (or in the case of managed fund shares, the disclosed portfolio, as applicable) is available to all market participants. The Exchange believes that adding this clarification to its rules promotes the just and equitable principles of trade and promotes a fair and transparent marketplace.

The Exchange notes that, in the event the NAV (or disclosed portfolio, as applicable) for one of the securities referred to above is no longer calculated or disseminated, the Exchange would halt trading in such security and would resume trading at such time as the NAV (or disclosed portfolio, as applicable) is available.

2. Statutory Basis

The Exchange believes that 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 mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the 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 Exchange has designated the proposed rule change as one that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Additionally, the Exchange provided the Commission with written notice of its intention to file the proposed rule change at least five business days before its filing. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

The Exchange has requested that the Commission waive the 30-day operative delay, which would make the rule change operative upon filing. The Exchange believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest as it will clarify a circumstance under which the Exchange will halt trading in Derivative Securities Products listed on the Exchange. This proposal is similar to rule changes by other national securities exchanges, and does not raise any new or unique issues.[10] Therefore, the Commission designates the proposed rule change as operative immediately.[11]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2008–91 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2008–91. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–

[4] See CBOE Rule 50.3 for the definition of ''CBSX Traders.''

[5] Pursuant to Rule 52.3(c)(5)(i), the term Derivative Securities Product includes a series of Equity-Linked Term Notes, Index-Linked Exchangeable Notes, IPRs, IPSs, or TIRs, which is based on an underlying security or index. Those products are described in CBOE Rules 31.5I, 31.5O, 31.5L, 31.5M, and 31.5N, respectively.

[6] The CBOE Stock Exchange is the stock trading facility of CBOE.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] *See* Securities Exchange Act Release No. 58111 (July 7, 2008), 73 FR 40643 (July 15, 2008) (SR–Amex–2008–40; SR–NASDAQ–2008–046; SR–NYSE–2008–39; SR–NYSEArca–2008–50).

[11] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

2008–91 and should be submitted on or before October 3, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–21167 Filed 9–11–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58467; File No. SR–NYSE–2008–77]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Amend Its Rule Governing Equity-Linked Debt Securities To Permit the Listing of Equity-Linked Debt Securities Linked To Baskets of Up to Thirty Underlying Securities and To Provide for Greater Flexibility in Listing Criteria

September 5, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 26, 2008, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 703.21 of the Exchange's Listed Company Manual (the ''Manual'') to permit the listing of Equity-Linked Debt Securities (''ELDS'') related to up to thirty (30) underlying stocks and to provide for greater flexibility in the listing criteria for ELDS. The text of the proposed rule change is available at NYSE, *http://www.nyse.com*, 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 self-regulatory organization 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 NYSE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section 703.21 of the Manual to permit the listing of ELDS related to up to thirty (30) underlying stocks and to provide for greater flexibility in the listing criteria for ELDS. The Exchange wishes to make this change in order to harmonize Section 703.21 with the comparable rules of the American Stock Exchange (the ''Amex''),[3] as well as the rules of NYSE Arca, Inc., which were recently conformed to the Amex rules.[4]

Number of Linked Securities

Currently, the Exchange defines ELDS as non-convertible debt of an issuer where the value of the debt is based, at least in part, on the value of another issuer's common stock, non-convertible preferred stock, common units of a master limited partnership or any other common equity security of a type classified for trading as stocks by the Exchange. The Exchange proposes to amend the definition to state that ELDS are defined as debt securities that are linked, in whole or in part, to the value of up to thirty (30) underlying stocks. This change conforms to NYSE Arca Equities Rule 5.1(b)(14), NYSE Arca Equities Rule 5.2(j)(2), and Section 107B of the Amex Company Guide.[5] The Exchange proposes to expand the number of stocks that may be linked to ELDS in order to accommodate the varying types of ELDS products that are currently offered in the marketplace. The Exchange believes that expanding the number of stocks that may be linked to ELDS will also provide investors with enhanced investment flexibility. The Exchange also believes that there would be no investor protection concerns with expanding the number of stocks linked to ELDS because each linked stock is required to individually satisfy the applicable listing standards set forth in Section 703.21.

Equity-Linked Debt Security Listing Standards

Section 703.21(B) currently provides that an issue of ELDS must have a minimum public distribution of one million ELDS, a minimum of 400 holders, a minimum market value of $4 million, and a minimum term of one year.

The Exchange proposes to add an exception to the minimum holders standard in Section 703.21(B) to provide that, if the ELDS is traded in $1,000 denominations, there will be no minimum number of holders. The Exchange also proposes to add an exception to the public distribution standard to provide that, if an issuance of ELDS is traded in $1,000 denominations, there will be no minimum public distribution requirement. These changes correspond to NYSE Arca Equities Rule 5.2(j)(2)(B) and Section 107A(b) of the Amex Company Guide.[6] The Exchange notes that, without the exception to the one million ELDS minimum public distribution requirement, the Exchange would be unable to list ELDS in $1,000 dollar denominations having a market value of less than $1 billion. The Exchange believes that the proposed exception is a reasonable accommodation for those issuances in $1,000 denominations.

In addition, the Exchange proposes to add an exception to the holders requirement in Section 703.21(B) to provide that, if the ELDS are redeemable at the option of the holders thereof on

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amex's initial listing standards for Equity-Linked Notes are set forth in Section 107A of the Amex Company Guide, which was approved by the Commission in March 1990, and Section 107B of the Amex Company Guide, which was approved by the Commission in May 1993. These sections have been amended several times. The filings that are relevant to the topics discussed in this filing follow. *See* Securities Exchange Act Release Nos. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (SR–Amex–89–29); 32343 (May 20, 1993), 58 FR 30833 (May 27, 1993) (SR–Amex–92–42); 34549 (August 18, 1994), 59 FR 43873 (August 25, 1994) (SR–Amex–93–46); 36990 (March 20, 1996), 61 FR 13545 (March 27, 1996) (SR–Amex–95–44); 37783 (October 4, 1996), 61 FR 53246 (October 10, 1996) (SR–Amex–96–31); 47055 (December 19, 2002), 67 FR 79669 (December 30, 2002) (SR–Amex–2002–110); 55733 (May 10, 2007), 72 FR 27602 (May 16, 2007) (SR–Amex–2007–34) (collectively, ''Amex Releases'').

[4] *See* Securities Exchange Act Release No. 56924 (December 7, 2007), 72 FR 70918 (December 13, 2007) (SR–NYSEArca–2007–98) (''NYSE Arca Release'').

[5] *See* Amex Company Guide Section 107 and NYSE Arca Equities Rules 5.1(b)(14) and 5.2(j)(2).

[6] *See* Amex Company Guide Section 107 and NYSE Arca Equities Rule 5.2(j)(2)(B).

at least a weekly basis, there will be no minimum number of holders. This change also corresponds to NYSE Arca Equities Rule 5.2(j)(2)(B) and Section 107A(b) of the Amex Company Guide.[7] The Exchange also proposes to clarify that the holders requirement applies to ''public'' holders only.

Linked Equity Listing Standards

Section 703.21(C) currently provides minimum standards applicable to the stocks underlying an ELDS and the issuers of such stocks. The rule currently provides that the ELDS must be issued by either: (a) A U.S. company, or (b) a non-U.S. company that meets certain additional standards. The Exchange proposes to amend the language in the rule to indicate that an issue of ELDS may be linked to more than one security and, therefore, more than one issuer of a security, in accordance with the amended definition of ELDS as set forth above. In addition, the Exchange proposes to amend the requirement that the issuer of any security underlying an ELDS must be a U.S. company (in order not to have to meet additional standards applicable to non-U.S. companies) to require that the issuer be a Securities Exchange Act of 1934 reporting company listed on a national securities exchange. This change corresponds to NYSE Arca Equities Rule 5.2(j)(2)(C) and Section 107B(e) of the Amex Company Guide.[8] The Exchange proposes this revision in order to encompass non-U.S. companies that have reporting requirements under the federal securities laws, which better addresses the Exchange's concern regarding the public availability of financial information for the issuers of the underlying securities. The Exchange believes that such information serves to protect investors and the public interest.

In Sections 703.21(C) and (D), the Exchange also proposes certain minor changes in order to clarify certain language, including the language regarding common shares and American Depositary Shares (''ADSs''), generally conforming it to NYSE Arca Equities Rule 5.2(j)(2)(C) and (D) and Section 107B(e) of the Amex Company Guide.[9] In Section 703.21(D), the Exchange also proposes to add the standard that, if any non-U.S. security and related securities have less than 20% of the worldwide trading volume occurring in the U.S. market during the six-month period preceding the date of listing, then the ELDS may not be linked to that non-U.S. security. This standard makes sense in the context of the current rule[10] and corresponds to NYSE Arca Equities Rule 5.2(j)(2)(D) and Section 107B(f) of the Amex Company Guide.[11] The Exchange believes that this additional standard is appropriate in that it limits the listing of ELDS linked to non-U.S. securities to those that have a significant amount of U.S. market-trading volume, which provides reasonable assurance that the underlying non-U.S. securities are deliverable upon exercise of the ELDS.

The Exchange also proposes to amend the last paragraph of the rule to clarify that the Exchange, with the concurrence of the staff of the Division of Trading and Markets of the Securities and Exchange Commission, will evaluate the maximum percentage of ELDS that may be issued on a case-by-case basis when an issuer proposes to list (rather than ''issue,'' as the current rule states) ELDS that relate to more than the allowable percentages of the underlying securities specified in the rule. We also propose to delete a reference in the last paragraph of the rule that indicates that this decision would relate to the allowable percentage of ''the underlying security,'' as this reference is no longer appropriate if ELDS may be issued that relate to multiple underlying securities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[12] of the Exchange Act, in general, and furthers the objectives of Section 6(b)(5) of the Exchange Act,[13] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest in that, while the proposed amendment adds additional flexibility to the rule, Section 703.21 as amended will continue to contain significant provisions for the protection of investors.

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 Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. 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 Exchange 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–2008–77 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2008–77. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the

[7] *Id.*

[8] *See* Amex Company Guide Section 107(B)(e) and NYSE Arca Equities Rule 5.2(j)(2)(C) and (D).

[9] *Id.*

[10] The current rule provides that the issuance of ELDS relating to underlying non-U.S. securities cannot exceed certain percentage limits of the total outstanding shares of the underlying security. These percentage limits are tied to 20%, 50% and 70% of worldwide trading volume. Therefore, the rule as currently in effect, does not contemplate less than 20% worldwide trading volume.

[11] *See* Amex Company Guide Section 107(B)(f) and NYSE Arca Equities Rule 5.2(j)(2)(D).

[12] 15 U.S.C. 78(b).

[13] 15 U.S.C. 78(b)(5).

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–NYSE–2008–77 and should be submitted on or before October 3, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[14] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,[15] which requires that the rules of an exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission finds good cause for approving this proposal before the 30th day after the publication of notice thereof in the **Federal Register**. The proposal seeks to conform the Exchange's rules for ELDS to the rules of Amex and NYSE Arca that have previously been approved by the Commission.[16] Therefore, the Commission does not believe that the Exchange's proposal raises any novel regulatory issues. The Commission believes that accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for ELDS.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[17] that the proposed rule change (SR–NYSE–2008–77) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–21166 Filed 9–11–08; 8:45 am]

BILLING CODE 8010–01–P

[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] *See* Amex Rule 107 and Amex Releases, note 3, *supra*. *See also* NYSE Arca Equities Rules 5.1(b)(14) and 5.2(j)(2) and NYSE Arca Release, note 4, *supra*.

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11425]

Louisiana Disaster Number LA–00020

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Louisiana (FEMA–1786–DR), dated 09/02/2008.

Incident: Hurricane Gustav.

Incident Period: 09/01/2008 and continuing.

Effective Date: 09/06/2008.

Physical Loan Application Deadline Date: 11/03/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 06/02/2009.

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: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Louisiana, dated 09/02/2008, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Parishes:

Bienville, Bossier, Caddo, Calcasieu, Caldwell, Catahoula, Claiborne, Concordia, De Soto, East Carroll, Franklin, Grant, Jackson, La Salle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Red River, Richland, Saint Helena, Saint Tammany, Tangipahoa, Tensas, Union, Washington, Webster, West Carroll, Winn.

Contiguous Counties: (Economic Injury Loans Only):

Arkansas: Ashley, Chicot, Columbia, Lafayette, Miller, Union.

Mississippi: Adams, Claiborne, Hancock, Issaquena, Jefferson, Marion, Pearl River, Pike, Walthal, Warren.

Texas: Cass, Harrison, Marion, Panola.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–21266 Filed 9–11–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11418 and #11419]

Louisiana Disaster Number LA–00019

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–1786–DR), dated 09/02/2008.

Incident: Hurricane Gustav.

Incident Period: 09/01/2008 and continuing.

Effective Date: 09/04/2008.

Physical Loan Application Deadline Date: 11/03/2008.

EIDL Loan Application Deadline Date: 06/02/2009.

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: The notice of the Presidential disaster declaration for the State of Louisiana, dated 09/02/2008 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Parishes: (Physical Damage and Economic Injury Loans):

Saint Tammany, Tangipahoa.

Contiguous Parishes/Counties: (Economic Injury Loans Only):

Louisiana: Washington.

Mississippi: Hancock, Pearl River, Pike.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E8–21267 Filed 9–11–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11425]

Louisiana Disaster #LA–00020

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Louisiana (FEMA–1786–DR), dated 09/02/2008.

Incident: Hurricane Gustav.

Incident Period: 09/01/2008 and continuing.

Effective Date: 09/02/2008.

Physical Loan Application Deadline Date: 11/03/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 06/02/2009.

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 President's major disaster declaration on 09/02/2008, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Parishes:

Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, Saint Bernard, Saint Charles, Saint James, Saint Landry, Saint Martin, Saint Mary, St John The Baptist, Terrebonne, Vermilion, Vernon, West Baton Rouge, West Feliciana.

Contiguous Parishes/Counties (Economic Injury Loans Only):

Louisiana: Calcasieu, Catahoula, Concordia, De Soto, Grant, La Salle, Natchitoches, Saint Helena, Saint Tammany, Tangipahoa.

Mississippi: Amite, Wilkinson.

Texas: Jefferson, Newton, Orange, Sabine, Shelby.

The Interest Rates are:

	Percent
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 and for economic injury is 11425.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E8–21269 Filed 9–11–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11311 and #11312]

Missouri Disaster Number MO–00030

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 6.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1773–DR), dated 06/28/2008.

Incident: Severe Storms and Flooding.

Incident Period: 06/01/2008 through 08/13/2008.

Effective Date: 09/04/2008.

Physical Loan Application Deadline Date: 09/30/2008.

EIDL Loan Application Deadline Date: 03/30/2009.

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: The notice of the President's major disaster declaration for the State of Missouri, dated 06/28/2008 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 09/30/2008.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–21263 Filed 9–11–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11309]

Missouri Disaster Number MO–00029

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 4.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Missouri (FEMA–1773–DR), dated 06/25/2008.

Incident: Severe Storms and Flooding.

Incident Period: 06/01/2008 through 08/13/2008.

Effective Date: 09/03/2008.

Physical Loan Application Deadline Date: 08/25/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Missouri, dated 06/25/2008, is hereby amended to re-establish the incident period for this disaster as beginning 06/01/2008 and continuing through 08/13/2008.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E8–21268 Filed 9–11–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11426]

New Hampshire Disaster #NH–00007

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Hampshire (FEMA–1787–DR), dated 09/05/2008.

Incident: Severe Storms and Flooding.

Incident Period: 07/24/2008 through 08/14/2008.

Effective Date: 09/05/2008.

Physical Loan Application Deadline Date: 11/04/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 06/05/2009.

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 President's major disaster declaration on 09/05/2008, private non-profit organizations that provide essential services of governmental nature may file disaster loan applications 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:

Belknap, Coos, Grafton.

Contiguous Counties (Economic Injury Loans Only):

New Hampshire: Carroll, Merrimack, Rockingham, Strafford, Sullivan.

Maine: Oxford.

Vermont: Caledonia, Essex, Orange, Windsor.

The Interest Rates are:

	Percent
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 and for economic injury is 11426.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–21265 Filed 9–11–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11416 and #11417]

North Carolina Disaster #NC–00013

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of North Carolina dated 09/04/2008.

Incident: Severe Storms and Flooding.

Incident Period: 08/26/2008 through 08/27/2008.

Effective Date: 09/04/2008.

Physical Loan Application Deadline Date: 11/03/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 06/04/2009.

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:

Cabarrus, Mecklenburg.

Contiguous Counties:

North Carolina: Gaston, Iredell, Lincoln, Rowan, Stanly, Union.

South Carolina: Lancaster, York.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	5.750
Homeowners Without Credit Available Elsewhere	2.875
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 11416 B and for economic injury is 114170.

The States which received an EIDL Declaration # are North Carolina, South Carolina.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: September 4, 2008.

Sandy K. Baruah,

Acting Administrator.

[FR Doc. E8–21270 Filed 9–11–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 6360]

Culturally Significant Objects Imported for Exhibition Determinations: ''Two Museums: One Culture''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Two Museums: One Culture,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Museum of Russian Icons, Clinton, MA, from on or about October 11, 2008, until on or about May 25, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: September 5, 2008.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–21315 Filed 9–11–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fifth Meeting, Special Committee 214: Standards for Air Traffic Data Communication Services, Working Group 78 (WG–78)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 214, Standards for Air Traffic Data Communication Services Working Group 78 (WG–78).

SUMMARY: The FAA is issuing this notice to advise the public of a fifth meeting of RTCA Special Committee 214, Standards for Air Traffic Data Communication Services.

DATES: The meeting will be held September 22–26, 2008 from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at Harris Corporation, Capital Gallery Place, 600 Maryland Avenue, SW., Suite 850E, Washington, DC 20024.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 214 meeting. The agenda will include:

Meeting Objectives

- Agree the Draft Integrated SPR (including existing services Operational Service Description (OSD), updated Environment Document plus D–OTIS OSD)
- Agree the D–TAXI OSD
- Agree the D–FIS (D–OTIS based) Operational Safety Assessment (OSA) for Integration in the SPR
- Progress CPDLC (ACL, ACM, AMC, DUG, DCL based) OSA
- Agree the Operational Performance Assessment (OPA) approach
- Progress the ATN, FANS and A623 Interoperability Standards
- Reach a consensus on the scope and timescales for the work remaining.

Note: The term ''Agree'' in the objectives above means that the document is on track with no major changes expected. It does not mean formal approval by the Plenary.

- September 22:

Monday—Morning

- Welcome, Review Status and Needs (aka Tutorials), Approval of Agenda, Approval of the Minutes of Plenary 4, RTCA Paper No. 163–08/SC214–014
- Review of the work so far
- Approval of the updated SC–214/WG–78 Operating Procedures (ref. POSPL Operating Procedures)
- SC0124/WG–78 Work Plan and TORs.
- SC–206/WG–76 Coordination
- CPDLC for ATSA–ITP Standards Approach

Monday—Afternoon

- Subgroup Reports and Action Item Responses—SG–1, SG–2 and SG–3.
- Documents Agreement:
- D–FIS (D–OTIS) Safety Assessment (ref. DFIS–OSA)
- September 23: Subgroup Working Sessions

Tuesday—Morning and Afternoon

- Subgroups Activity: Subgroups General, SG–1, SG–2 and SG–3
- September 24: Subgroup Working Sessions

Wednesday—Morning and Afternoon

- Subgroups Activity: Subgroups General, SG–1, SG–2 and SG–3
- September 24: Subgroup Working Sessions

Thursday—Morning and Afternoon

- Subgroups Activity: Subgroups General, SG–1, SG–2 and SG–3
- September 25: Subgroup Working Sessions

Friday—Morning

- Subgroup Reports
- General
- SG–1
- SG–2
- SG–3
- OPA Approach: Presentation and Agreement
- Document Agreements:
- Integrated Draft SPR (including existing services OSD, updated Environment Documents plus D–OTIS OSD)
- D–TAXI OSD
- Review Committee Plan—Master Schedule—Terms of Reference
- Closing Session (Next Meeting Dates, Location and Agenda for Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 2, 2008.

Francisco C. Estrada,

RTCA Advisory Committee.

[FR Doc. E8–21186 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2008–41]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before October 2, 2008.

ADDRESSES: You may send comments identified by Docket Number FAA–2008–0737 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to

http://www.regulations.gov at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Frances Shaver, (202) 267–9681, or Katrina Holiday, (202) 267–3603, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on September 8, 2008.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2008–0737.

Petitioner: Light Aircraft Manufacturers Association.

Section of 14 CFR Affected: § 21.190(c)(2).

Description of Relief Sought: The petitioner seeks relief to permit manual feathering of a propeller in an aircraft certificated as a Special or Experimental Light Sport Aircraft-Glider.

[FR Doc. E8–21080 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2008–0009, Notice No. 3]

Declaration of Emergency Events

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of declaration of emergency events.

SUMMARY: On August 28 and September 4, 2008, the Administrator of the FRA determined that the impending landfall of hurricanes Gustav, Hanna, and Ike and the related requests for Presidential, Federal Disaster Declarations from the Governors of the States of Texas and Louisiana, constituted emergency events as related to railroad operations. Accordingly, the Administrator activated the Emergency Relief Docket. This document provides notice of the Administrator's determinations.

SUPPLEMENTARY INFORMATION: On August 28 and September 4, 2008, the Administrator of the FRA determined that the impending landfall of hurricanes Gustav, Hanna, and Ike and the related requests for Presidential, Federal Disaster Declarations from the Governors of the States of Texas and Louisiana, constituted emergency events pursuant to 49 CFR 211.45(c) and that public safety required the implementation of FRA's emergency waiver rule directly related to those emergencies. Accordingly, the Administrator activated the Emergency Relief Docket (docket number FRA–2008–0009) and in accordance with 49 CFR 211.45(g), petitions received in that docket pursuant to these emergency events will be handled according to the requirements of 49 CFR 211.45(g)–(j).

Interested parties are reminded that the procedures in 49 CFR 211.45 provide for expedited review and processing of emergency waiver petitions. Accordingly, in accordance with 49 CFR 211.45(h), any person wishing to comment on petitions for emergency waivers should submit their comments to the docket within 72 hours from the close of business on the day that the petition is posted in the public docket. Any person desiring a public hearing on any petition being processed in accordance with the emergency waiver procedures must notify FRA of such request in their comments submitted to the docket. 49 CFR 211.45(i).

Interested persons may submit their comments using any of the following methods:

(1) E-mail to FRA at *RRS.Correspondence@dot.gov;*

(2) Fax to FRA at: 202–493–6309; or

(3) Hand deliver or expedited delivery to the Docket Clerk, Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590 or electronically via the Internet at *http://www.regulations.gov.*

All communications concerning any petition in the Emergency Relief Docket should identify the appropriate docket number (e.g., FRA–2008–0009).

Privacy

Anyone is able to search 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 665, Number 7, Pages 19477–78). The statement may also be found at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC on September 8, 2008.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E8–21336 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2008–0040]

Notice of Request for the Extension of a Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to extend the following currently approved information collection:

49 U.S.C. Section 5316—Job Access and Reverse Commute Program

DATES: Comments must be submitted before November 12, 2008.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (**Note:** The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *http://www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *http://*

www.regulations.gov. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or you may visit *http://www.regulations.gov.*

Docket: For access to the docket to read background documents and comments received, go to *http://www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David Schneider, FTA Office of Program Management (202) 493–017, or e-mail: *David.Schneider@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: 49 U.S.C. Section 5316—Job Access and Reverse Commute Program (*OMB Number: 2132–0563*).

Background: 49 U.S.C. 5316, the Job Access and Reverse Commute (JARC) Program, authorizes the Secretary of Transportation to make grants to states for areas with a population of less than 200,000 and designated recipients in urbanized areas of 200,000 persons or greater to transport welfare recipients and other low-income individuals to and from jobs and activities related to employment. Grant recipients are required to make information available to the public and to publish a program of projects which identifies the subrecipients and projects for which the State or designated recipient is applying for financial assistance. FTA uses the information to determine eligibility for funding and to monitor the grantees' progress in implementing and completing project activities. FTA collects performance information annually from designated recipients in rural areas, small urbanized areas, other direct recipients for small urbanized areas, and designated recipients in urbanized areas of 200,000 persons or greater. FTA collects milestone and financial status reports from designated recipients in large urbanized areas on a quarterly basis. The information submitted ensures FTA's compliance with applicable federal laws and OMB Circular A–102.

Respondents: State and local government, private non-profit organizations and public transportation authorities.

Estimated Annual Burden on Respondents: 251 hours for each of the 206 respondents.

Estimated Total Annual Burden: 122,374 hours.

Frequency: Annual.

Issued: September 8, 2008.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. E8–21175 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2008–0041]

Agency Information Collection Activity under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to extend the following currently approved information collection: Rail Fixed Guideway Systems, State Safety Oversight. The **Federal Register** Notice with a 60-day comment period soliciting comments was published on June 23, 2008. No comments were received in response to that notice.

DATES: Comments must be submitted before October 14, 2008. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: LaStar Matthews, Office of Administration, Office of Management Planning, (202) 366–2295 or e-mail: *LaStar.Matthews@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Rail Fixed Guideway Systems, State Safety Oversight.

OMB Number: 2132–0558.

Abstract: 49 U.S.C. 5330 requires States to designate a State Safety Oversight (SSO) agency to oversee the safety and security of each rail transit agency within the State's jurisdiction. To comply with Section 5330, SSO agencies must develop program standards which meet FTA's minimum requirements. In the Program Standard, which must be approved by FTA, each SSO agency must require each rail transit agency in the State's jurisdiction to prepare and implement a System Safety Program Plan (SSPP) and System Security Plan (SSP). The SSO agency also requires the rail transit agencies in its jurisdiction to conduct specific activities, such as accident investigation, implementation of a hazard management program, and the management of an internal safety and security audit process. SSO agencies review and approve the SSPPs and SSPs of the rail transit agencies. Once every three years, States conduct an on-site review of the rail transit agencies in their jurisdictions to assess SSPP/SSP implementation and to determine whether these plans are effective and if they need to be updated. SSO agencies develop final reports documenting the findings from these on-site reviews and require corrective actions. SSO agencies also review and approve accident investigation reports, participate in the rail transit agency's hazard management program, and oversee implementation of the rail transit agency's internal safety and security audit process. SSO agencies review and approve corrective action plans and track and monitor rail transit agency activities to implement them.

Collection of this information enables each SSO agency to monitor each rail transit agency's implementation of the State's requirements as specified in the Program Standard approved by FTA. Without this information, States would not be able to oversee the rail transit agencies in their jurisdictions. Recent recommendations from the National Transportation Safety Board (NTSB) and the Government Accountability Office (GAO) have encouraged States and rail transit agencies to devote additional resources to these safety activities and safety oversight in general.

SSO agencies also submit an annual certification to FTA that the State is in compliance with Section 5330 and an annual report documenting the State's safety and security oversight activities. FTA uses the annual information submitted by the States to monitor implementation of the program. If a State fails to comply with Section 5330, FTA may withhold up to five percent of the funds appropriated for use in a State or urbanized area in the State under section 5307. The information submitted by the States ensures FTA's compliance with applicable federal

laws, OMB Circular A–102, and 49 CFR Part 18, ''Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments.''

Estimated Total Annual Burden: 142,393 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: FTA Desk Officer.

Comments are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued: September 8, 2008.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. E8–21180 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA Docket No. NHTSA–2008–0147]

National Emergency Medical Services Advisory Council (NEMSAC); Notice of Federal Advisory Committee Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

SUMMARY: The NHTSA announces a meeting of NEMSAC to be held in the Metropolitan Washington, DC area. This notice announces the date, time and location of the meeting, which will be open to the public. The purpose of NEMSAC is to provide a nationally recognized council of emergency medical services representatives and consumers to provide advice and recommendations regarding Emergency Medical Services (EMS) to the U.S. DOT's NHTSA.

DATES: The meeting will be held on October 2, 2008, from 1 p.m. to 5 p.m. and October 3, 2008, from 8 a.m. to 11 a.m. A public comment period will take place on October 3, 2008, between 10 a.m. and 10:30 a.m.

Comment Date: Written comments or requests to make oral presentations must be received by September 25, 2008.

ADDRESSES: The meeting will be held at the Marriott Crystal City at Reagan National Airport, 1999 Jefferson Davis Highway, Arlington, VA 22202. 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 September 25, 2008. All submissions received must include the docket number, NHTSA–2008–0147 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://www.regulations.gov/* under the docket number listed at the beginning of this notice. 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 third meeting on Thursday and Friday, October 2 and 3, 2008, at the Marriott Crystal City at Reagan National Airport, 1999 Jefferson Davis Highway, Arlington, VA 22202.

Agenda of Council Meeting, October 2–3, 2008

The tentative agenda includes the following:

Thursday, October 2, 2008

(1) Opening Remarks;

(2) Introduction of Members and all in attendance;

(3) Review and Approval of Minutes of last meeting;

(4) Committee Reports and Discussion of Recommendations.

Friday, October 3, 2008

(1) Welcome and Introductions;

(2) Unfinished Business from October 2nd;

(3) Federal Interagency Committee on Emergency Medical Services Report;

(4) Report on ''From Evidence to EMS Practice'' Conference;

(5) Public comment period;

(6) Next steps and future meetings.

A public comment period will take place on October 3, 2008, between 10 a.m. and 10:30 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, October 3 between 10 a.m. and 10:30 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 September 25, 2008. There will be limited seating, so please register early. Pre-registration is necessary to enable proper arrangements.

Minutes of the NEMSAC Meeting will be available to the public online through the DOT Document Management System (DMS) at: *http://www.regulations.gov* under the docket number listed at the beginning of this notice.

Issued on: September 5, 2008.

Jeffrey P. Michael,

Acting Associate Administrator for Research and Program Development.

[FR Doc. E8–20970 Filed 9–11–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 274X); STB Docket No. AB–414 (Sub-No. 4X)]

Union Pacific Railroad Company—Abandonment Exemption—in Pottawattamie County, IA; Iowa Interstate Railroad, Ltd.—Discontinuance of Service Exemption—in Pottawattamie County, IA

On August 25, 2008, Union Pacific Railroad Company (UP) and Iowa Interstate Railroad, Ltd. (IAIS) (collectively, petitioners) jointly filed with the Surface Transportation Board (Board) an amended petition [1] under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to permit: (1) UP to abandon and discontinue service over its line of railroad known as the Great Western Industrial Lead (UP line) from milepost 503.6 to milepost 504.05, a distance of approximately 0.45 miles, in Pottawattamie County, IA; (2) IAIS to discontinue trackage rights over the UP line; (3) UP to discontinue its overhead trackage rights over IAIS' line of railroad known as the Main Line (IAIS line) from milepost 486.8 to milepost 488.0, a distance of approximately 1.2 miles, in Pottawattamie County, IA.[2] According to petitioners, the IAIS line connects to the UP line via a short industrial track, which is available to both UP and IAIS. Petitioners advise that IAIS will continue to use the UP line to serve Red Giant Oil Company (Red Giant) and Midwest Walnut Company, the only shippers on the line. Petitioners state that, after abandonment, the UP line will become part of Red Giant's private property and an industrial track.[3] The UP line traverses U.S. Postal Service Zip Code 51503 and includes no stations. The IAIS line traverses U.S. Postal Service Zip Codes 51501 and 51503, and also includes no stations.

Petitioners state that the UP line does not contain Federally granted rights-of-way. Any documentation in petitioners' possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 12, 2008.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,500 filing fee. *See* 49 CFR 1002.2(f)(25).[4]

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than October 2, 2008. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket Nos. AB–33 (Sub-No. 274X) and AB–414 (Sub-No. 4X), and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001; (2) for UP—Gabriel S. Meyer, Assistant General Attorney, 1400 Douglas Street, STOP 1580, Omaha, NE 68179; and (3) for IAIS—Edward J. Krug, Krug Law Firm, PLC, P.O. Box 888, 6 Hawkeye Drive, Suite 103, North Liberty, IA 52317. Replies to petitioners' petition are due on or before October 2, 2008.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: September 5, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–21237 Filed 9–11–08; 8:45 am]

BILLING CODE 4915–01–P

[1] Petitioners originally filed their petition for exemption on August 19, 2008. On August 25, 2008, petitioners filed an amendment to their petition for exemption. Because the amended petition for exemption was received on August 25, 2008, that date will be considered the official filing date.

[2] UP and IAIS filed the trackage rights agreement covering IAIS's trackage rights on the UP line in *Iowa Interstate Railroad, Ltd. and Union Pacific Railroad Company—Joint Relocation Project Exemption—in Council Bluffs, Pottawattamie County, IA,* STB Finance Docket No. 33883 (STB served June 30, 2000).

[3] Petitioners state that neither carrier will retain a common carrier obligation on the UP line.

[4] Effective July 18, 2008, the filing fee for an OFA increased to $1,500. *See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2008 Update,* STB Ex Parte No. 542 (Sub-No. 15) (STB served June 18, 2008).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 3 Taxpayer Advocacy Panel (Including the States of Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas, and the Territory of Puerto Rico)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 3 Taxpayer Advocacy Panel will be conducted via telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Monday, October 20, 2008.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 3 Taxpayer Advocacy Panel will be held Monday October 20, 2008, at 12:30 p.m. Eastern Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Rd., Suite 340,

Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: August 29, 2008.

Roy L. Block,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–20947 Filed 9–11–08; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Friday,

September 12, 2008

Part II

Department of Transportation

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 192, 193, and 195

Pipeline Safety: Control Room Management/Human Factors; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 192, 193, and 195

[Docket ID PHMSA–2007–27954]

RIN 2137–AE28

Pipeline Safety: Control Room Management/Human Factors

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

ACTION: Notice of proposed rulemaking.

SUMMARY: PHMSA proposes to revise the Federal pipeline safety regulations to address human factors and other components of control room management. The proposed rules would require operators of hazardous liquid pipelines, gas pipelines, and liquefied natural gas (LNG) facilities to amend their existing written operations and maintenance procedures, operator qualification (OQ) programs, and emergency plans to assure controllers and control room management practices and procedures used maintain pipeline safety and integrity. This proposed rule results from a PHMSA study of controllers and controller performance issues known as the Controller Certification Project (CCERT), a National Transportation Safety Board study, safety-related condition reports, operator visits and inspections, and inquiries. This rule would improve opportunities to reduce risk through more effective control of pipelines and require the human factors management plan mandated by the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES Act). These regulations would enhance pipeline safety by coupling strengthened control room management, including automated control systems, with improved controller training and qualifications and fatigue management. PHMSA expects these regulations will complement efforts already underway in the pipeline industry to address human factors and control room management, such as the development of new national consensus standards, including an American Petroleum Institute (API) recommended practices on roles and responsibilities, shift operations, management of change, fatigue management, alarm management and SCADA display standard, as well as comparable business practices at some pipeline companies.

DATES: Anyone interested in filing written comments on this proposal must do so by November 12, 2008. PHMSA will consider late comments filed so far as practical.

ADDRESSES: Comments should reference Docket No. PHMSA–2007–27954 and may be submitted the following ways:

- *E-Gov Web site: http://www.regulations.gov.* This Web site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* DOT Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- *Hand Delivery:* DOT Docket Management System; West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket ID, PHMSA–2007–27954, at the beginning of your comments. If you submit your comments by mail, submit two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.*

Note: Comments are posted without changes or edits to *http://www.regulations.gov,* including any personal information provided. There is a privacy statement published on *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Byron Coy at (609) 989–2180 or by e-mail at *Byron.Coy@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Prevention Through People

Over the past several years, PHMSA's integrity management (IM) programs have been successfully driving down the two leading causes of pipeline failure—excavation damage and corrosion. IM programs help operators understand the threats affecting the integrity of their systems and implement appropriate actions to mitigate risks associated with these threats.

Excavation damage and corrosion are, however, only part of the safety picture. The next logical area of program development is to examine the role people play in operating and maintaining pipelines. With this proposed rule, PHMSA is beginning implementation of a program that recognizes the importance of human interactions and opportunities for preventing risk, both errors and mitigating actions, to pipeline systems through a Prevention Through People (PTP) program. PTP addresses human impacts on pipeline system integrity. Human impacts include errors contributing to events, intervention to prevent or mitigate events, and the recognition of events that may begin the need for increased vigilance. The role of people, including controllers and those interacting with control center operations, is a vital component in preventing and reducing risk associated with pipeline systems. The proposed rule addresses requirements applicable to controllers and control room management.

PHMSA has long recognized that controllers can play a key role in pipeline safety. Congress recognized the importance of this role in the Pipeline Safety Improvement Act of 2002 (PSIA) (Pub. L. 107–355) and the PIPES Act. A controller's actions can mitigate risk, but they can also introduce the potential for upset conditions. Human error (including those caused by mistake or fatigue) can cause or exacerbate events involving releases leading to safety hazards and environmental impacts. Controllers also respond to indications of abnormal conditions on the pipeline. Appropriate human response to abnormal situations can mitigate events, helping to prevent accidents leading to adverse consequences. As part of the PTP program, this proposed rule addresses requirements applicable to controllers, key players among the people who can affect pipeline safety.

Several existing regulations strengthen the effectiveness of the role of people in managing safety. These include regulations on damage prevention programs (49 CFR 192.614 and 195.442), public awareness (§§ 192.616 and 195.440), qualification of pipeline personnel (part 192, subpart N, part 193, subpart H, and part 195, subpart G), and drug and alcohol testing regulations and procedures (parts 40 and 199). Explicitly incorporating a PTP element in IM plans would emphasize the role of people both in contributing to, and in reducing, risks. PHMSA believes this may be the best means of fostering a holistic approach to managing the safety impact of people on the integrity of pipelines. This proposed rule adds requirements applicable to control room management. In the future, PHMSA plans to address additional risks associated with human factors as well as the opportunities for people to mitigate risks. In addition to regulations, PHMSA plans to identify and promote noteworthy best practices in PTP.

PHMSA recently reported to Congress on its work examining control room management issues as mandated in the PSIA. The report, titled ''Qualification of Pipeline Personnel,'' includes a summary of the CCERT Project, a four-year effort examining control room issues in PTP. Although the project began with examination of qualification issues, during the course of the project, we identified other control room issues impacting the safety performance of controllers. PHMSA concluded that validating the adequacy of controller-related processes, procedures, training, and the controllers' credentials would improve management of control rooms, thereby enhancing safety for the public, the environment and pipeline employees. PHMSA also identified areas in which additional measures could enhance control room safety and minimize the risk associated with fatigue and interaction with computer equipment. These areas include annual validation of controller qualifications by senior level executives of pipeline companies, clearly defined responsibilities for controllers in responding to abnormal operating conditions, the use of formalized procedures for information exchange during shift turnover, and clearly established shift lengths combined with education on strategies to reduce the contribution of non-work activities to fatigue. These areas are addressed by requirements included in this proposed rule.

II. Background

A. Pipelines and LNG Plants

Approximately two-thirds of our domestic energy supplies are transported by pipeline. There are roughly 170,000 miles of hazardous liquid pipelines, 295,000 miles of gas transmission pipelines, and 1.9 million miles of gas distribution pipelines in the United States. Hazardous liquid pipelines carry crude oil to refineries and refined products to locations where these products are consumed. Hazardous liquid pipelines also transport highly volatile liquids (HVLs), other hazardous liquids such as anhydrous ammonia, and carbon dioxide. The regulations in 49 CFR part 195 apply to owners and operators of pipelines used in the transportation of hazardous liquids and carbon dioxide. Throughout this document, the term ''operator'' refers to both owners and operators of pipeline facilities.

Gas transmission pipelines typically carry natural gas over long distances from gas gathering, supply, or import facilities to localities where it is used to heat homes, generate electricity, and fuel industry. Gas distribution pipelines take natural gas from transmission pipelines and distribute it to residential, commercial, and industrial customers. The regulations in 49 CFR part 192 apply to operators of pipelines that transport natural gas, flammable gas, or gas which is toxic and corrosive. Throughout this document, the term ''gas'' refers to all gases in pipelines regulated under part 192.

Additionally, there are currently 109 LNG import and peak shaving plants connected to our natural gas transmission and distribution pipeline systems. The volume of natural gas is reduced about 600 times when the gas is cooled to a liquid form. This allows large quantities of natural gas to be transported by ship and to be stored in insulated tanks. LNG import plants allow the U.S. to use natural gas produced in other countries and transported by ship. According to the Department of Energy, imported LNG provided 2% of U.S. natural gas supplies in 2003 but that proportion is expected to grow to 21% by 2025.[1] LNG peak shaving plants allow gas pipeline operators to liquefy and store natural gas during off-peak periods. The stored LNG is then converted back to natural gas when needed for periods of peak consumption. The risks inherent in control of these facilities can be reduced by application of this proposed rule.

B. Control Rooms and Controllers

Most pipelines are underground and operate without disturbing the environment or negatively impacting public safety. However, accidents[2] do occasionally occur. Effective control is one key component of accident prevention. Controllers can help identify risks, prevent accidents, and minimize commodity losses if provided with the necessary tools and working environment. Therefore, this proposed rule is intended to increase the likelihood that pipeline and LNG controllers have the necessary knowledge, skills, abilities, and qualifications to help prevent accidents and that operators provide controllers with the training, tools, procedures, management support, and environment where a controller's actions can help prevent accidents and minimize commodity losses.

i. Background

Pipeline systems vary from small, simple systems, to complex systems covering thousands of miles. Combined, these systems make up a vast network of pipelines reaching across the United States. Pipeline systems include pumps, compressors, storage tanks, valves, and other components. A pump station, compressor station, or terminal is usually a major installation consisting of large pumps, compressors, storage tanks, and other service equipment. Pipeline systems also include valves used to control pressure and to direct flow during normal operations, to isolate sections of pipeline for maintenance or emergency activities, or to maintain operating pressures within allowable limits.

Most operators monitor pumps, compressors, valves, and other equipment from single or multiple locations, often hundreds of miles away. Such locations are commonly known as ''control rooms.'' The individuals who work in control rooms are ''controllers.''[3] A control room may have one or more controllers, who could be union or non-union employees. Both union and non-union controllers may work for the same operating company and a control room is likely to be operational 24 hours a day, 365 days a year, or less, depending on the complexity and nature of the pipeline system or LNG facilities served.

Most operators use computer-based supervisory control and data acquisition (SCADA) systems, distributed control systems (DCS), or other less sophisticated systems to gather key information electronically from field locations.[4] These systems are configured to present field data to the controllers, and may include additional historical, trending, and alarm management information. Controllers track routine operations continuously and watch for possible developing abnormal operating or emergency conditions. A controller may take direct action through the SCADA system to correct the conditions

[1] U.S. Department of Energy, Office of Fossil Energy Web site (*http://www.fossil.energy.gov/programs/oilgas/storage/lng/feature/whyimportant.html*).

[2] The pipeline safety regulations in 49 CFR parts 191, 192, and 193 refer to certain harmful events on a gas pipeline system or LNG facility as ''incidents'' while part 195 refers to certain failures on a hazardous liquid pipeline system as ''accidents.'' Throughout this document the terms ''accident'' and ''incident'' may be used interchangeably to mean an event or failure on a gas or hazardous liquid pipeline system or LNG facility.

[3] Different titles exist in the industry for personnel who operate computer-based systems for controlling and monitoring the operations of pipeline facilities, some of which are controllers, dispatchers, operators, and board operators, but all are considered ''controllers'' in this document.

[4] SCADA and DCS systems perform similar functions. Throughout this document, where the term SCADA is used, it should be interpreted to mean SCADA or DCS.

or the controller may alert and defer action to others.

ii. Importance of Control Rooms and Controllers

Control rooms and controllers are critical to the safe operation of pipeline systems and LNG facilities. Control rooms often serve as the hub or command center for decisions such as adjusting commodity flow or facilitating an operator's initial response to an emergency. The control room is the central location where humans or computers receive data from field sensors. Commands from the control room may be transmitted back to remotely controlled equipment. Field personnel also receive significant information from the control room. In essence, the control room is the ''brain'' of the pipeline system or LNG plant. Errors made in control rooms can have significant effects on the controlled systems. A controller's errors can initiate or exacerbate an accident. A controller's improper action or lack of action can place undue stresses on a pipeline segment or an LNG facility, which could result in a subsequent failure, the loss of service, or an increase in lost commodity, leading to risk to people, the environment, and the fuel supply. Controller responses to developing abnormal operating conditions or accidents can alleviate or exacerbate the consequences of some events regardless of the initial cause.

A brief description of a few accidents can help illustrate the importance of control rooms and controllers to safe pipeline operation. More often than not, however, control rooms and controllers are a significant part of an operator's response to abnormal and emergency events rather than the cause.

- A batch of hazardous liquid expected to fill several tanks was being received at a tank terminal. A tank switchover was scheduled to occur late in a controller's shift. The switchover did not occur at the scheduled time due to a reduction in flow rate in the pipeline, but the controller failed to inform the relief controller at shift change. The oncoming controller assumed the switchover had happened as scheduled, and therefore did not monitor the levels in the tank being filled. The liquid overflowed the tank and was ignited. The resulting fire caused considerable damage including the destruction of two large storage tanks.
- A seldom-used manual valve in a hazardous liquid pipeline system had been closed to facilitate maintenance. The controller was aware that the valve was closed. The controller was not aware, however, that the indication on his computer display of pressure near the valve came from a transducer downstream of the valve. The display indicated it was from the upstream side of the valve. While filling the isolated portion of the pipeline to return it to service, the controller over-pressurized the line, resulting in a rupture.
- While diverting hazardous liquid pipeline flow from one facility to another, an elevated pressure caused the rupture of a pipeline at a location weakened by previous third party damage. Pumps had automatically shut off due to the high pressures. Despite a sharp drop in line pressure, the controller did not recognize that the pipeline had failed, and re-started the pumps. As a result, a significant amount of product was released through the ruptured line, ignited, and resulted in several fatalities. Maintenance activities being performed on the computers of the SCADA system at the time of the vent hampered the controller from recognizing and reacting to the failure.
- A slug of contaminants was introduced into a gas transmission pipeline when gas was drawn from storage. The contaminants affected instruments and regulators as the slug moved down the pipeline, resulting in many control room alarms. The controller operating the pipeline did not recognize what was happening and failed to initiate corrective action in time to avoid loss of gas supply to several towns.
- A citizen called a gas pipeline control room to report a sheen on a creek in a right-of-way shared with hazardous liquid pipelines. The citizen called the gas control room because its telephone number was on the pipeline marker the citizen located in the corridor. The controller of the gas pipeline failed to contact the controllers of the liquid pipelines in the shared corridor, and referred the information from the call to a field office that was unattended at the time. The result was a delay of several days in responding to a potential failure of one of the liquid pipelines.
- In a similar situation, a citizen telephoned a gas control room and reported a leak. The controller concluded the company had no facilities in the area, that any problem was thus not theirs, and did not follow up. The leak persisted and subsequent calls to regulatory agencies resulted in locating a number of leaks in the area affecting facilities operated by the control room that took the original call.

iii. Local Control and LNG

Many pipeline systems and LNG plants have equipment that is locally controlled via a control panel located on or near the field equipment. The individuals who operate this equipment using the control panel could be considered controllers depending on their shared and associated responsibilities with controllers at other locations. This may also depend on the specific equipment being controlled and whether or not the controlled equipment is within direct observation of the individual at the local control panel.

Gas pipeline operations are sometimes associated with LNG plants. LNG facilities are operated from control rooms and can have locally-controlled equipment in the same manner as pipeline facilities. In addition, some LNG control rooms also control pipeline systems connected to the LNG plant. Working from control rooms, controllers operate LNG facilities, pipelines associated with the facilities, and locally controlled equipment within LNG plants.

Most pipeline systems today have control rooms. These facilities can be located at some distance from the pipeline, or they may be in close proximity to the pipeline. Many pipelines also have locally controlled equipment operated by controllers. This proposed rule addresses all of these situations. Pipeline and LNG facilities include compressor stations, hazardous liquid terminals, pump stations, LNG plants, and any other locations where controllers are located. In addition, control room also means a control center, control station, or any other such terminology.

iv. Providing Tools for Effective Controller Performance

Pipeline and LNG controllers impact the safety and integrity of the pipeline and LNG facilities they operate by being vigilant during normal operations and by properly responding to abnormal operating conditions and potential emergency situations. Public safety can be enhanced when a pipeline or LNG operator provides a controller the necessary tools and management support, while implementing and tracking thoroughly developed processes used by controllers.

SCADA systems, which are widely used throughout the pipeline industry, can be as simple as computerized field equipment that allows an individual to monitor alarms or control equipment within a pipeline facility; or they can be more complex and diverse to allow a

controller to monitor, or monitor and control, many facilities as part of a complex pipeline network involving various communications mediums, often from a control room that is hundreds of miles away. For some pipeline operators, the application of SCADA systems has resulted in a reduction of pipeline field personnel, making the role of the controller even more critical to the safety and integrity of pipeline facilities.

Pipeline and LNG controllers also must have adequate and up-to-date information about the conditions and operating status of the equipment they monitor, or monitor and control, if they are to succeed in maintaining pipeline safety. Incorrect, delayed, missing, or poorly displayed data may confuse a controller and can lead to problems despite the extensive training, qualification, and abilities of the controller.

v. Controller Knowledge and Abilities

Operators should assure that controllers perform their duties promptly and accurately, including routine operations and response to developing abnormal operating conditions or emergency circumstances, to help maintain pipeline and LNG facility safety. Existing operator qualification (OQ) regulations for pipeline personnel currently address a portion of the processes affecting a controller's ability to succeed in maintaining pipeline safety and integrity.

A controller should possess certain abilities, and attain the knowledge and skills necessary to complete the various tasks required for a specific pipeline system or LNG facility. To attain the necessary knowledge and skills, the controller is typically required to complete extensive on-the-job training and is often closely observed by an experienced controller for a period of time. The controller must also review and understand appropriate procedures, including those associated with emergency response, and repeatedly practice the correct responses to a variety of abnormal operating conditions. A controller's skills and knowledge are then evaluated through the pipeline operator's OQ process. Many pipeline operators require additional company-specific performance requirements that are outside of the operator's OQ program.

Many controllers routinely monitor and send commands to change flow rates and pressures, open and close valves, start and stop compressors or pumps, monitor tank levels, identify abnormal operating and emergency conditions, and perform a key role when a safety response is needed. In some pipeline systems, controllers also monitor corrosion control rectifiers, odorant systems, purge operations, leak detection equipment, and security systems. Prompted by an assortment of factors, controllers re-direct flow, start and stop pipeline segments, or further adjust flow rates to accommodate market conditions, maintenance activities, and weather conditions on a regional or national basis. For these pipelines, dynamic operating conditions require controllers to have a high level of knowledge, skills, and abilities to safely maintain systems and to promptly recognize abnormal operating conditions or other anomalies as situations develop. In other pipelines and distribution systems, controllers use computers to closely monitor operating conditions, and then alert field personnel to take action when upset, abnormal or emergency conditions arise.

A controller needs adequate, thorough training and qualifications as well as appropriate timely data, a control system designed to aid in the prompt identification of abnormal conditions, and an understanding of the controller's authority to take appropriate actions.

vi. Control Room Management

All of this must occur within an environment that facilitates appropriate and correct actions. Operators must appropriately manage the factors affecting the controller, including relevant human factors and operator processes and procedures. PHMSA refers to the combination of all these factors as control room management.

Centralized pipeline and facility control operations generally fall into one of three control function categories or into a hybrid combination:

1. Monitor, detect, and perform full remote control.

2. Monitor, detect, and direct field operating personnel to perform specific actions.

3. Monitor, detect, and alert field operating personnel, and defer action to field personnel.

Controllers use SCADA systems to detect and monitor operational conditions. A controller then performs the required control function or directs or defers to field operations for needed attention based on the controller's responsibility, authority, and assessment of the situation.

Individual station computer control may be implemented through:

1. A unified control system within the station or plant, or

2. Individual unit-mounted control panels for each piece of equipment or groupings of equipment.

Pipeline operations can vary significantly based on the physical properties of the commodities transported. For example, compressibility is a fundamental difference between natural gas and some hazardous liquids. SCADA system configuration, communication schemes, control modes and applied instrumentation, pipeline system configuration and complexities, size, procedures, and practices can further differentiate pipeline operations. These differences can have dramatic effects on the required content and scope of a controller's training and qualifications, and on operational procedures and configuration of applied SCADA control systems. Differences in pipeline operations can also exist because some controllers are union employees governed by contract conditions and some are not. This can impact the number of hours worked, activities performed, number of controllers on shift, and other factors such as shift schedules.

All controllers have some opportunity to mitigate risks. The degree to which they can affect pipeline safety may vary. For example, all controllers, including those that monitor only, can affect minor events (*i.e.* those not meeting reporting thresholds) and can influence the impact of future incidents in a positive manner. Pipeline controllers require similar cognitive and analytical skills. Additionally, control room procedures, pipeline controller tools, training, skills, and qualifications can impact controller performance.

The nature of a particular control arrangement and the commodity transported will affect the actions an operator must take to manage the control environment and permit controllers to be successful in maintaining pipeline safety. None of these differences, though, obviate the need for control room management.

C. The Safety Pyramid

Operators of gas pipeline systems must submit to PHMSA written reports of events meeting certain criteria as incidents. Over the past 10 years, gas pipeline operators have submitted written reports for approximately 100 incidents per year on approximately 300,000 miles of gas transmission pipelines and approximately 130 incidents per year on approximately 2 million miles of distribution pipelines. Similarly, operators of hazardous liquid pipeline systems must submit to PHMSA written reports of

pipeline system failures meeting certain criteria as accidents. Over the same 10 years, hazardous liquid pipeline operators have reported an average of approximately 140 accidents per year on approximately 160,000 miles of pipeline. The total number of accidents reported to PHMSA is about 370 per year.

There are far more events, failures and near misses that occur on pipelines than those that require written reports. Some involve off-normal conditions for which controllers or automated safety systems intercede to prevent serious consequences. Others do not progress to the point of needing controller or safety system involvement. Pipeline operators document some near misses, but not all. PHMSA believes there are other low-order events, failures and near misses that occur unobserved.

The term ''safety pyramid'' was used by Dr. D.W. Heinrich (1881–1962), an insurance company analyst who analyzed industrial accident prevention in the 1930s. In particular, he studied the relationship of events of varying significance and concluded that serious events (*e.g.*, those resulting in fatalities) in any system occur in much smaller numbers than events of lesser significance. His work generally divided events into a 300-29-1 ratio, where there is 1 significant failure and 29 notable events in every 300. Heinrich called this relationship the ''safety pyramid.'' In turn, the number of errors and situations not recognized as ''events'' is even larger. Reportable pipeline accidents and incidents are only the tip of the safety pyramid. More events and failures occur at lower levels of the pyramid, including many near-miss events. Information about these near-miss events, whether affecting a gas pipeline, hazardous liquid pipeline, or LNG facility, can lead to identifying key elements that can prevent events and failures from reaching the tip of the safety pyramid. Controller vigilance and appropriate response to lower-level events thus serves to prevent reportable pipeline incidents from occurring.

D. Learning From Industry-Wide Operating Experience

The proposed rule would require operators to establish a program to evaluate events that occur on their pipeline systems to identify lessons that can be used to improve control room performance. PHMSA believes it would be useful for the pipeline industry to establish a program to perform the same function for events occurring across the pipeline industry and to disseminate to all pipeline operators the lessons learned.

It is self-evident that more events occur within the pipeline industry than on any individual pipeline system. The industry's safety pyramid is larger than that for any individual operator. This larger database of experience would provide more opportunity to learn lessons that can be used to improve the ability of controllers to maintain pipeline safety. For example, the airline industry and nuclear power plants have processes to collect and analyze operating experience and to share important lessons across their sectors. No such process exists within the pipeline or LNG industries. Some information about failures can be gleaned from news reports and discussions in trade association meetings, but pipeline and LNG operators do not usually share the details of failures. Operators are even less likely to share information about the bulk of close-calls and other minor events in the lower sector of the safety pyramid. Events with significant consequences (*e.g.*, the 1999 hazardous liquid pipeline leak and explosion in Bellingham, Washington, or the 2001 gas transmission pipeline explosion near Carlsbad, New Mexico) get considerable press attention and become well known. The NTSB investigates significant pipeline events and issues reports and recommendations. Some events of lesser significance may be reported in trade press or by informal communications among pipeline operators, but there is no formalized process to collect and analyze information regarding close-call events or problems with more limited consequences in the pipeline industry.

For larger pipeline operators, the sheer number of pipeline segments and stations may allow for the creation of a sufficiently large database of events to yield analytical value, but for most operators, their own experiences are not adequate to do so. Industry trade associations or other cooperative organizations could sponsor an industry-wide process to collect and analyze such information. Issues of proprietary information and perceived industry collusion are real constraints, but these have been dealt with in other industries.

While the proposed rule would require each operator to establish a program to evaluate events that occur on its pipeline system, the rule would not require an intra-industry operating experience review process. PHMSA believes such intra-industry review could be useful, but does not consider it appropriate at this time to avoid the issues of unnecessary disclosure of proprietary information and perceived industry collusion. PHMSA encourages these industries to consider establishing such processes and invites the public and industry to comment on the value of such an inter-company review process.

III. Human Factors Studies

A. PHMSA Controller Study

PHMSA had been studying and evaluating control room operations for many years and began developing control room inspection guidance in 1999. Subsequently, Congress enacted the PSIA, which the President signed into law on December 17, 2002. Section 13 of the PSIA required the DOT to conduct a pilot program to evaluate whether pipeline controllers should be certified based on tests and other requirements. In response to the PSIA, PHMSA conducted the CCERT study and reported findings to Congress in a report dated December 17, 2006, entitled ''Qualification of Pipeline Personnel.'' This project included a comprehensive review of existing controller training, qualification processes, procedures, and practices. This review also included identifying potential enhancements such as validation and certification processes currently used in other industries to enhance public safety.

Understanding the attributes traditionally contained in existing operators' training and qualification programs was an essential element of CCERT. Process techniques, practices, and procedures are significant and valuable tools to train and qualify controllers. PHMSA identified techniques, practices, and procedures through interviews with numerous pipeline operators and controllers in a variety of situations. This included pipelines of a wide array of types and sizes and both union and non-union controllers.

PHMSA determined what actions would lead to an additional assurance that pipeline controllers are adequately qualified to perform safety-sensitive tasks. The project team also identified key processes and procedures critical to control room safety and reviewed certification programs. To consider validation or certification of pipeline operators' qualification processes, the training and qualification programs should be thorough and adequately administered. PHMSA's primary project objectives were to review and evaluate the structure and content of operators' training and qualification programs and to identify controller procedures that can have an impact on pipeline safety and integrity.

The project focused on the content of the pipeline operators' administrative, training, and evaluation techniques that make up the controller training and qualification processes, and included a review of related safety and integrity procedures. Ultimately this information helped to:

- Identify content that should be included in an operator's training program for controllers.
- Identify content that should be included in the qualification programs to provide a higher assurance that controllers possess adequate knowledge, skills, and abilities to maintain the safety and integrity of the pipeline.
- Determine what form of validation should be used to ascertain that pipeline controllers are adequately qualified and sustain those qualifications.
- Identify aspects of safety and integrity practices and procedures that are critical to controllers.

PHMSA established and implemented a strategy for receiving and encouraging ongoing stakeholder interaction early in the project. This approach involved the participation of numerous stakeholders that provided information including a focus group with representatives of the public, industry trade associations, pipeline operators, state and Federal pipeline safety agencies, and academia. PHMSA shared insights regarding key operational and logistical considerations for the project and collected comments from the group at key phases of the project. Information came directly from the focus group participants and indirectly from members of their respective constituencies. In addition, PHMSA presented project updates at numerous trade association meetings and other stakeholder forums to solicit additional feedback.

PHMSA gathered supplemental information regarding controller qualifications from pipeline operators transporting various commodities with diverse control room characteristics, complex control operations and minimal monitoring operations, union and nonunion work environments, and varying pipeline mileage. Additional information was also obtained from the following sources:

- National Transportation Safety Board (NTSB);
- PHMSA Pipeline Technical Advisory Committees;
- National Association of Pipeline Safety Representatives (NAPSR);
- Pipeline trade organizations such as the
  - American Petroleum Institute (API),
  - Association of Oil Pipelines (AOPL),
  - American Gas Association (AGA),
  - American Public Gas Association (APGA), and
  - Interstate Natural Gas Association of America (INGAA);
- Research by
  - Najmedin (Najm) Meshkati, Professor of Civil/Environmental Engineering and Professor of Industrial and Systems Engineering at the University of Southern California,
  - Craig Harvey, Industrial and Manufacturing Systems Engineering, Louisiana State University, and
  - Marvin McCallum, Christian Richard, Battelle Seattle Research Centers;
- Related product and system vendors;
- Public advocate discussion lists (such as *http://tech.groups.yahoo.com/group/safepipelines*)
- Other industries utilizing validation and certification programs, including:
  - Aviation,
  - Railroad,
  - Nuclear power, and
  - Electric power transmission.

PHMSA gathered additional information from the Environmental Protection Agency, the Occupational Safety and Health Administration, and the Chemical Safety Board. Because training, qualification, and certification programs are implemented in various forms, discussions about lessons learned in the development, implementation, and maintenance of programs in other industries were especially valuable.

PHMSA sponsored two public workshops (June 27, 2006, and May 23, 2007) that provided various stakeholders an opportunity to discuss options to enhance the adequacy of control room management, provide substantiation of existing pipeline control management processes, discuss human fatigue issues, present existing qualification processes, and provide insights on other programs or methods used to provide for effective monitoring and control of pipelines.

The workshops provided additional information and promoted discussion on the most critical factors emerging from the CCERT and the NTSB recommendations (discussed below) affecting the control and monitoring of gas and hazardous liquid pipelines. PHMSA provided an opportunity to discuss findings as a basis for providing further assurance about the effectiveness of pipeline control and the skills and qualifications of controllers. To foster discussion, PHMSA posed a number of specific questions in the **Federal Register** notices announcing the workshops, which were then discussed during the workshops, yielding valuable information, ideas, and opinions from a broad assortment of stakeholders.

The first workshop was divided into several sessions, each highlighted by panel discussions and an open question and answer period. The panels were made up of subject matter experts from the public, industry, and government. The panelists discussed formalized procedures to control shift rotation schedules, shift changeover practices and possible ways to improve training on fatigue. Discussions included the CCERT recommendations providing clear direction regarding the controller's authority and responsibility to promote prompt detection and appropriate response to abnormal operating and emergency conditions and ways to address major changes in the controller's operating environment.

The panelists discussed the importance of operators routinely reviewing alarm and event displays to identify when changes are necessary as well as additional measures to further protect against unauthorized access to the SCADA area. Different types of training associated with the recognition of abnormal operating conditions, emergencies, and maintaining personnel qualifications were also reviewed. A more detailed summary of the workshop is available in the CCERT docket, PHMSA–RSPA–2004–18584.

The significant outcome of CCERT was the identification of elements that can provide value in controller training and qualification processes and the recognition of the importance of thoroughness and clarity of controller-related procedures that affect pipeline safety and integrity. Also of value was the identification of a validation process for the implementation and review of these same processes and procedures. Enhancements to operator programs affecting controllers can be realized with thorough and formalized procedures and practices, additions to training and qualification programs, stimulated discussions in industry fostering a continued sharing of best practices, and the development of industry-wide recommended practices and standards. Other factors can also influence a controller's ability to succeed. Pipeline operators should identify a controller's physical work environment, visual and aural distractions, ancillary work assignments that dilute a controller's attentiveness, workload, and SCADA system performance.

The CCERT team concluded that a single controller certification process for the entire pipeline industry would not be appropriate for a number of reasons. First, because of the wide variability

among pipeline systems, a uniform controller qualification (certification) examination would have to be very general. Second, a general exam would need to be supplemented by significant and specific material for each system by each operator before a controller could adequately perform his duties. Third, a uniform controller qualification or certification test for the entire industry would not address many operator-specific and sometimes unique tasks critical to individual pipeline safety and integrity.

The CCERT team concluded, however, that requiring operators to validate, review, and continuously improve the adequacy of controller-related training, qualification, and procedures specific to each operator's pipeline would lead to improved public safety and better safety management in control rooms.

The CCERT team also concluded:

- As a cause or contributor to pipeline events or failures, control rooms rank very low compared to corrosion, material defects, and third party damage, but controllers must respond appropriately to each of these identified contributing factors.
- Controllers are in a position of great importance to detect and react to abnormal operating and emergency conditions, thereby helping to avert failures and mitigate damage after a failure occurs.
- Controllers are key players in a company's response to abnormal operating and emergency conditions.
- The low probability of controller error is offset by the potentially high consequence of damages and injuries as a result of their improper actions.
- Remote monitoring or control through the use of a computer system may be performed in a formal control room, or numerous less formal settings such as an individual's office, service vehicle, or residence.
- The location of monitor or control functions does not define the nature or complexity of operations.
- Established definitions used in other regulations such as large or small operators based on pipeline mileage, location of the facility, or less than 20% of the specified minimum yield strength (SMYS) of the pipeline, are not good qualifiers in defining control room risks.
- More complex and diverse operations call for more thorough control room systems and processes.
- Involvement of field personnel in control activities has the potential to positively or negatively influence risk control.
- Although some operators still use 8-hour shifts, most operators have moved to 12-hour shifts.
- Choice of shift plan and rotation schedule is usually not supported by analytical review for fatigue.
- Most operators are performing at least a subset of the actions included in this proposed rule, but frequently without documentation of the basis for their process design choices or implementation methods, and sometimes without formalized procedures to maintain consistency or to provide for continuous improvement through review.

Because controllers can have a great influence on the outcome of abnormal operating and emergency conditions, it is important that we provide for adequacy of controller knowledge, skills, abilities, and performance and their maintenance over time. PHMSA has identified fundamental operating procedures and practices, which should be used by pipeline controllers to enhance public safety. Most operators are currently using a subset of these procedures and practices, but use of these procedures and practices is not universal throughout the industry. The project team concluded that operators should be required to have more thorough, formalized procedures and processes for controller training and qualification which would be evaluated by the appropriate Federal or state regulatory authority.

PHMSA collected and reviewed information from recent accident data analysis, complaints, inquiries, safety related condition reports, operator visits, PHMSA CCERT team operating experience, and the CCERT pilot program to be certain the activities of the pilot project operators and subsequent recommendations included recognition of lessons learned from those events that have been attributed to, or aggravated by, controller action or lack of action. While information reviewed indicates there is low probability for controller error to be the primary cause of an accident when compared to corrosion and other causal factors, this can be offset by the potentially high consequence of controller actions or inaction. Other industries, which employ validation and certification programs for control room personnel, also provided lessons learned in the development, implementation, and maintenance of validation and certification programs.

Through the CCERT study, PHMSA identified a number of areas associated with the performance of control rooms that require enhancement. These areas were identified through numerous control room observations, PHMSA CCERT team operating experience, the collection of related research and project activities, controller cognitive skills review, the pilot program, and the comparisons with control room management issues in parallel industries. The enhancement areas incorporated into this proposed rule are as follows:

- Clearly define the roles and responsibilities of controllers to promote their prompt and appropriate response to abnormal operating conditions.
- Formalize procedures for recording critical information and for exchanging information during shift turnover or other times when a controller needs to be away from the desk and duties.
- Establish shift lengths, maximum hours of service limitations, and schedule rotations that provide sufficient time off work for rest in order to protect against the onset of fatigue that could affect the performance of pipeline controllers.
- Educate controllers and controller supervisors in fatigue mitigation strategies and how non-work activities contribute to fatigue that could affect pipeline control and control room management.
- Periodically review SCADA displays to ensure controllers are getting clear and reliable information from field stations and devices.
- Periodically audit alarm configurations and handling procedures to provide confidence in alarm signals and to foster controller effectiveness.
- Involve controllers when planning and implementing changes in operations.
- Maintain strong communications between controllers and field personnel.
- Determine how to establish, maintain, and review controller knowledge, skills, abilities, and qualifications.
- Develop performance metrics with particular attention to response to abnormal operating conditions.
- Analyze operating experience, including accidents, for possible involvement of the SCADA system, controller performance, and fatigue.
- Validate the adequacy of controller-related procedures and training, and the qualifications of controllers annually through involvement by senior-level executives of pipeline companies.

PHMSA considers annual senior executive validation a key element. This would require a pipeline operator's senior executive responsible for pipeline operations to attest to the content and thoroughness of controller training and qualification programs and

related procedures that impact safety, and to verify that the individuals who operated the pipeline or LNG facility during the year have completed these training and qualification programs. The executive validations would be subject to regulatory review and inspection, and create a stronger ownership and responsibility of senior management in regard to potential fines and court proceedings. A secondary benefit of this validation process would be improved communication between executive level management, control room supervision, and controllers regarding concerns, duties, procedures, and processes resulting in an elevated awareness within each pipeline operator regarding the critical nature of a controller's job as well as the impact of controller duties on the safety and integrity of pipeline operations.

Discussions in the first public workshop held June 27, 2006 reflected general acknowledgement by the pipeline industry that the process outlined above was appropriate to reduce control room risk. There was also general agreement that much of the process is in place in many pipeline control operations. A summary of this workshop is available in the docket PHMSA–RSPA–2004–18584.

PHMSA's second public workshop was held on May 23, 2007. Representatives of the pipeline industry, trade associations, the NTSB, other modes of transportation, and public interest groups presented their views on issues ranging from operator fatigue to the need to periodically review control room procedures. There was general agreement among workshop participants that controllers play an important role and that a human factors plan could have value. At the same time, most agreed that there was no need for major changes to current control room practices and staffing. A summary of this workshop is available in the docket PHMSA–2007–27954.

B. NTSB SCADA Study

The NTSB conducted a safety study on hazardous liquid pipeline SCADA systems during the same time period as PHMSA conducted the CCERT study. The PHMSA project addressed a wider perspective of interest, but includes findings similar to those in the NTSB Report.[5] The NTSB study identified areas for potential improvement, which resulted in five recommendations; three are incorporated in this proposed rule. PHMSA is addressing the other two recommendations independent of this proposed rulemaking.

The impetus of the NTSB study was a number of hazardous liquid accidents investigated by the NTSB in which leaks went undetected after the initial indications of a leak were apparently evident on the SCADA system. The NTSB designed its SCADA study to examine how hazardous liquid pipeline companies use SCADA systems to monitor and record operating data and to evaluate the role of SCADA systems in leak detection. The study identified five areas for potential improvement:

- Display graphics.
- Alarm management.
- Controller training.
- Controller fatigue data collection.
- Leak detection systems.

While this NTSB SCADA study specifically addressed hazardous liquid pipelines, NTSB included in the report an appendix listing all of its SCADA-related recommendations, which resulted from investigations of both hazardous liquid and gas pipeline accidents. Since 1976, the NTSB has issued approximately 30 recommendations either directly or indirectly related to SCADA systems involving both hazardous liquid and gas pipeline systems. PHMSA considers that the NTSB recommendations apply equally to gas and hazardous liquid pipelines and to LNG facilities. The recommendations are as follows:

NTSB Recommendation P–05–1

Operators of hazardous liquid pipelines should be required to follow the API Recommended Practice 1165 (API RP 1165) for the use of graphics on the SCADA screens.

NTSB Recommendation P–05–2

PHMSA should require pipeline companies to have a policy for the review and audit of SCADA-based alarms.

NTSB Recommendation P–05–3

Operators should be required to include simulator or non-computerized simulations for training controllers in recognition of abnormal operating conditions, in particular leak events.

NTSB Recommendation P–05–4

PHMSA should change the hazardous liquid accident reporting form (PHMSA F 7000–1) and require operators to provide data related to controller fatigue. PHMSA is addressing this recommendation in a separate action.

NTSB Recommendation P–05–5

PHMSA should require operators to install computer-based leak detection systems on all lines unless engineering analysis determines that such a system is not necessary. PHMSA is publishing a report on leak detection systems and technology in 2008.

PHMSA is addressing the first three recommendations in this proposed rule. Based on PHMSA's review of accident and incident data, the project team found that errant SCADA displays have the potential to confuse or mislead controllers or field personnel. They also found very few operators who consider the impact of color perception impairments and screen clutter or who perform periodic point-to-point verifications of screen display data with field instrumentation. Furthermore, the team found that training of the controllers usually did not include reference material to guide controllers to particular types of displays to help resolve certain types of abnormal operating conditions quickly or to address emergency response.

The CCERT team found through discussions with operators that policies were seldom in place for systematically reviewing alarms on a regular basis. Many operators were not analyzing the number of alarms, seeking to eliminate unnecessary alarms, routinely determining if new alarms were needed, studying alarms to consider if grouping could consolidate information for more effective use, looking for systemic alarms, or reviewing alarms to verify alarm descriptions were clear to the controller. In addition, operators were not reviewing alarms to determine if abnormal operating conditions were frequently occurring together or consecutively. Rate-of-change alarms often were not being used as operational tools for controllers. Most operators were not looking for potential gradual degradation of controller response or changes in controller performance. Operators may have to reduce pressure because of concerns about the integrity of the pipeline, such as anomalies discovered during integrity management assessments. However, in many cases, the operators were not changing associated alarm set-point values, or field relief values, correspondingly when implementing these pressure reductions.

The CCERT team's discussions with controllers identified that generic simulators and high-fidelity (frequently referred to as ''full'') simulators were preferred training tools. The controllers interviewed generally found full simulators to have significant value. Tabletop discussions and exercises, and computerized simulators, were both found to be valuable resources for controllers in training for response to

[5] NTSB, ''Supervisory Control and Data Acquisition (SCADA) Systems in Liquid Pipelines,'' Safety Study NTSB/SS–05–02, adopted November 29, 2005.

abnormal operating conditions. Direct controller involvement in scenario development of tabletop exercises and computer-based simulations can add safety value to these tools. Controllers can also provide significant feedback on exercise performance. However, controllers were frequently not represented in the development of exercises and frequently did not participate in exercises other than to call out appropriate responders. Controllers were seldom asked what could be done to make an exercise more realistic, provide greater value or improve team response performance.

C. DOT's Human Factors Coordinating Committee (HFCC)

The Secretary of Transportation established the HFCC in 1991 to become the focal point for human factors issues within DOT. Since its inception, the HFCC, a multi-modal team with government-wide liaisons, has successfully addressed crosscutting human factors issues in transportation. The HFCC has influenced the implementation of human factors projects within and among DOT's operating administrations, provided a mechanism for exchange of human factors and related technical information, and provided synergy and continuity in implementing transportation human factors research. DOT recognizes that many human performance issues are crosscutting and will benefit from a multi-modal approach. DOT needs coordinated human factors research to permit large research efforts that modes cannot support individually, to address multi-modal transportation issues, as well as to advocate for timely human factors research in transportation system solutions.

PHMSA continues to actively participate on the HFCC, and has drawn from the work of the HFCC to help identify fatigue management strategies for control room management.

IV. PIPES Act of 2006

The PIPES Act of 2006 (Pub. L. 109–468) imposed additional requirements on PHMSA with respect to control room management and human factors. The PIPES Act requires PHMSA to issue regulations requiring each operator of a gas or hazardous liquid pipeline to develop, implement, and submit a human factors management plan designed to reduce risks associated with human factors, including fatigue, in each control room for the pipeline. Operator plans must include a maximum limit on the hours a controller may work in a single shift between periods of adequate rest. PHMSA, or a state authorized to exercise safety oversight, is required to review and approve operators' human factors plans, and operators are required to notify PHMSA (or the appropriate state) of deviations from the plan.

The PIPES Act also requires PHMSA to issue standards to implement the first three recommendations of the NTSB SCADA safety study as described above. Controllers using computer equipment to monitor or operate pipeline facilities can be impacted by display information, alarms, and abnormal operating conditions regardless of what type of system they operate. PHMSA considers the recommendations to be equally applicable to hazardous liquid and gas pipelines (transmission and distribution) as well as LNG facilities. This proposed rule will respond to the mandates in the PIPES Act relative to control room management, human factors, and SCADA.

V. Standards, Recommended Practices, and Guidelines

One of the actions identified by CCERT was the development of consensus-based best practices to promote controller success. PHMSA is encouraged by recent industry efforts, including industry review of existing standards (such as the Instrument Society of America SP–18 and the Engineering Equipment and Materials Users Association 191A), guidance material in development by the Transportation Security Administration (TSA) focusing on SCADA CyperSecurity, and the development of other guidance, recommended practices, and standard documents. The structured development process used to establish this type of material has historically yielded great safety value. Such efforts focused on Control Room Management have the potential of enhancing safety, especially when all key stakeholders are included and contribute to the process.

The following is a list of identified applicable standards, recommended practices, white papers, and guidance material that have been established, revised, or that are currently under development:

- API RP–1165, SCADA Display Standard.
- American Society of Mechanical Engineers (ASME) B31Q, Operator Qualifications.
- API 1164, SCADA Security.
- API RP1167, Alarm Management.
- AGA, Alarm Management.
- API RP 1161, Qualification of Liquid Pipeline Personnel.
- TSA, SCADA CyperSecurity Guidance Material.
- API RP 1168, Control Room Management.
- ISA SP–18, Instrument Signals and Alarms.
- EEMUA 191A, Alarm Systems—A Guide to Design, Management and Procurement.

API recommended practice on control room management was initiated in February, 2008 and is anticipated to be completed in February, 2009. It is anticipated this document will address four of the nine enhancement areas addressed in PHMSA research and required in the PIPES Act. Specific guidance anticipated in this recommended practice will address: (1) Roles and Responsibilities, (2) Shift Operations, (3) Management of Change, and (4) Fatigue. PHMSA anticipates guidance on such aspects as clarifying operator's expectations for controllers to take action, information flow needed on field activities that could affect pipeline operations, direction of shift rotation and time between shifts, extent of off-duty activity and fatigue management strategy, personal responsibility for rest, how to recognize and mitigate fatigue, and the content of education programs to share with families of the controllers.

PHMSA and NAPSR have been participating in the development of this recommended practice and other national consensus document efforts and will continue to support, participate in, and encourage the development of national consensus standards and recommended practices. Once these materials are completed, PHMSA will review them and consider a regulatory amendment to incorporate by reference all or parts of such applicable documents in amended regulations.

VI. PHMSA's Proposed Approach

PHMSA is proposing to require that appropriate control room management elements be incorporated into operator plans and procedures already required by existing regulations. PHMSA believes this approach will minimize the burden on operators and will prove more effective in the long term, because it will integrate these elements directly into the existing operator programs associated with these actions. This will also avoid operators having another plan that may create or exacerbate internal communication complexities. As is the case with other regulations, an operator would not be expected to establish processes and procedures for those tasks not applicable to their operations.

These requirements would apply to operators of hazardous liquid, gas transmission, and gas distribution pipeline facilities, as well as to

operators of LNG facilities. The requirements would not apply to operators of master meters or petroleum gas systems unless the operator transports gas as a primary activity. Master meter and petroleum gas pipeline systems are generally very simple and typically consist of only pipe, service regulators, meters, and manual valves. These systems do not typically include a control room, equipment requiring local control or computer systems for operations, or provisions for continuous remote monitoring. Operators of these systems are excluded from the scope of this proposed regulation. This proposed exclusion is consistent with other PHMSA initiatives and regulations.

The control room management elements describe ''what'' an operator must include but not ''how'' an operator must carry out such elements. This is typical of performance-based regulations and it recognizes the significant diversity present among pipeline systems and control rooms.

One of the elements proposed is a plan that each operator would develop and implement to limit the maximum length of time that a controller could work in a single shift between periods of adequate rest. The PIPES Act specifies that PHMSA (or a state authority) may not approve a control room management plan that does not include such a limit. This rule does not propose a maximum hours of service limit, since PHMSA recognizes operator-specific factors may affect this limit for each operator. Many controllers work 12-hour shifts, as do individuals with similar jobs in other industries. PHMSA has no technical objection to 12-hour shifts. For control rooms staffed on a 24-hour basis, we also recognize that additional time is required at the beginning and end of each shift to accomplish a thorough shift turnover between incoming and outgoing controllers. Thorough shift turnover procedures are important and are one of the elements included in this proposed rule.

Research performed by others has repeatedly identified a need for individuals to have eight hours sleep each day to maintain their best performance.[6] PHMSA understands that operators have limited control over what a controller does during off-shift hours, but the agency expects that shift schedules will be established to provide a reasonable opportunity for a controller to achieve eight hours of sleep and for operators to educate controllers on the importance and need for adequate rest. PHMSA expects operators to take these factors into consideration when establishing a limit on the maximum hours an individual controller would work in a single shift, between periods of adequate rest. Operators should also consider other factors that may be unique to their operations and should provide an adequate amount of time between shifts so that controllers can rest and be expected to be free from fatigue.

Shift change may not be the only time that controllers relieve each other and need to communicate critical information. Operators need to consider what other factors may determine when a thorough and complete set of information is necessary to be communicated to controllers and their supervisors. PHMSA will take all the above factors into consideration when reviewing operators' shift plans, rotations and schedules and educational programs about the importance of adequate rest.

PHMSA will fulfill the PIPES Act requirement to review operator plans by evaluating related programs, procedures, records, and related documentation during inspections. PHMSA will also develop guidance to assist inspectors in conducting comprehensive inspections and evaluations addressing all required control room management elements. This guidance will help Federal and State agencies achieve maximum impact from the evaluation of operators' plans, maintain consistency and uniformity among inspections, and reduce the amount of subjectivity during inspections.

VII. The Proposed Rule

This proposed rule would affect operators of hazardous liquid, gas transmission, and gas distribution pipelines and operators of LNG facilities that use controllers. The nature of these facilities and their related control rooms vary, as do the complexity of pipeline systems and facilities. The proposed rule would not affect master meter operators or operators of petroleum gas systems unless the operator transports gas as a primary activity. This performance-based rule describes the necessary elements and outcomes operators must accomplish but does not prescribe exactly how operators must incorporate each element. Each operator must have documented procedures, guidelines or practices, tailored to the operator's specific systems, control regime, and circumstances.

Controllers play a critical role in any system that uses human-machine interface to monitor or control pipeline systems, LNG facilities, or other equipment. The nature of that role varies with the type of commodity and the relative complexity of the pipeline system and facilities, but the analytical and cognitive skills needed are similar in all cases. Gas industry trade groups have expressed their view that controllers have limited opportunity to affect pipeline safety; PHMSA disagrees. Furthermore, gas pipeline controllers interviewed by PHMSA and those serving as subject matter experts on the ASME B31Q[7] national consensus standards team for operator qualifications have also indicated that their actions could impact safety. While the compressibility of gas and the rapid progression of gas transmission pipeline failures generally make it unlikely that controller actions can cause an incident or mitigate the immediate effects of an incident, PHMSA believes that controller actions in gas pipeline systems can make incidents more likely.

PHMSA also believes that controllers can hinder mitigative actions after the initial consequences of a rupture; can recognize abnormal operating conditions and intercede to prevent incidents; and can routinely perform significant functions to operate the pipeline and facilities in a safe manner. PHMSA also notes that all controllers serve important functions in the response to incidents and accidents. In many cases, controllers serve as the first line of defense to prevent incidents and accidents, and thus serve an important safety function requiring special training and qualification. PHMSA concludes that the minimum actions required by this proposed rule, expressed in simple performance terms, are necessary and reasonable. PHMSA also concludes that many are these actions already being used or exceeded by pipeline operators and that imposition of these requirements will improve safety without unreasonable burden.

This proposed rule would add provisions to 49 CFR parts 192, 193, and 195. Rather than describe these changes on a section-by-section basis, this document describes them by topic

[6] For a discussion of research concerning fatigue and need for sleep, see Federal Motor Carrier Safety Administration proposed rule, May 2, 2000 (65 FR 25540). PHMSA is not relying on any particular study cited by FMCSA for its action here, but rather on the totality of research indicating that an 8-hour sleep period is necessary to provide for optimum human performance.

[7] ASME B31Q is a national consensus standard governing qualification of pipeline operating personnel. A team of experts representing various technical disciplines within pipeline operating companies, including controllers, developed the standard.

because the general content of the changes in each part is the same.

A. Changes to Operations and Maintenance (O&M) Manuals

PHMSA is proposing the human factors management plan required by the PIPES Act be comprised of several enhancements in each operator's written O&M procedures manual(s), OQ program, and emergency procedures plan. PHMSA believes this makes it more likely that the actions required in this proposed rule will be integrated effectively into pipeline operations, thus limiting the potential for miscommunications to occur.

PHMSA is proposing to include these requirements in a separate section within each part because we believe the verification and deviation reporting provisions of this proposed rule will be easier to understand if included in a separate code section for control room management.

B. Definitions

This proposed rule adds the definitions of four key terms to improve the clarity of the proposed new requirements: Alarm, controller, control room, and SCADA.

An alarm is defined as an indication provided by SCADA or a similar monitoring system that a monitored parameter is outside normal or expected operating conditions. Controllers need to be aware of these conditions, and a number of these conditions need to be controlled in order not to overwhelm the controllers. The proposed rule provides for periodic actions to review alarm management. The new definition is intended to make certain that treatment of these abnormal indications is addressed as part of this management, whether or not individual operators call them alarms.

Fundamentally, a controller is an individual who uses computer-based equipment to monitor, or monitor and control, all or part of a pipeline system or LNG facility. Individuals who monitor or control a pipeline or LNG facility using computerized systems are controllers. For the purposes of this rule, individuals who operate equipment locally but who cannot actually see the equipment respond without using a closed circuit television system or other external devices are controllers when performing these activities, regardless of their job title or whether their actions are overseen by other controllers or supervisors. Conversely, individuals who operate equipment locally and can see the equipment respond without using a closed circuit television system or other external devices are not controllers. Maintenance and other personnel accessing data from the control system are not controllers.

While controller oversight of individuals operating equipment locally can facilitate the recognition of inappropriate control actions and possibly mitigate their consequences, the oversight does not generally allow prevention of inappropriate actions before they create adverse conditions. PHMSA believes that preventing actions that could result in unfavorable consequences is more important than identifying and possibly mitigating these actions after they occur. Therefore, we conclude that treating individuals operating equipment locally as controllers, even if they are subject to oversight or supervision by other trained individuals, is necessary to maintain public safety.

A control room is traditionally a central location where a pipeline system or LNG facility is monitored or controlled, regardless of whether all, or only part, of a pipeline system or LNG facility is monitored or controlled. Control rooms may include multiple stations for individual controllers who monitor or control portions of the pipeline system or facility, or instead may house a single controller. Central locations within a field station (*e.g.*, pump or compressor station, terminals) that include controls for multiple pieces of equipment are considered control rooms for purposes of this proposed rule, though the equipment at such field locations may not include the capability to monitor or control portions of the pipeline outside of the field station. A control room is sometimes referred to as a control center, control station or by other similar terminology. However, a controller may perform his duties by non-traditional means such as using a laptop in a vehicle.

This proposed rule adds a definition for SCADA. These are the computer-based systems that collect and display information about the status of the pipeline or facility and display that information to controllers for their use in monitoring or controlling the pipeline or facility. Many SCADA systems provide the capability to control pipeline equipment from remote control panels but systems that only provide monitoring information are also considered SCADA systems.

C. Implementation Schedules

PHMSA recognizes that different pipeline systems possess different levels of risk from potential controller errors. We also recognize that developing and implementing procedures for more complex systems that pose the greatest risks needs to be thoroughly analyzed. Operators must take the time necessary to be thorough in developing their procedures. Complex systems often require additional time to train all personnel and fully implement these procedures. For some pipelines, negotiations with unions may be required to implement these requirements; such negotiations take time. PHMSA has tried to balance these needs in the implementation schedules included in this proposed rule.

Operators of hazardous liquid pipelines and gas transmission pipelines controlled or monitored remotely and operators of LNG plants with controllers would be required to develop procedures within one year after the effective date of the final rule. These operators would have one additional year to implement these procedures completely, including all necessary training.

The proposed rule would require operators of hazardous liquid pipelines and gas transmission pipelines to develop procedures for control rooms that control only equipment within a single site (*e.g.*, pump or compressor station) within two years after the effective date of the final rule and to implement those procedures within an additional six months. This reflects the relatively lower risk associated with control rooms for these single facilities and allows the operators of the more complex pipelines to focus their initial efforts on remote-operation control rooms where potential risk is greater.

Operators of gas distribution systems would have two years after the effective date of the final rule to both develop and implement procedures. These systems operate at lower pressures, usually have field response crews in close proximity to instrumentation, and pose lower consequence risks from controllers. Many gas distribution operators are small companies or municipal departments that will require additional time to manage limited technical resources available to write procedures. At the same time, the relative simplicity of these small systems makes it easier to train controllers and implement new procedures.

Pipeline systems that rely solely on local control pose less consequence risk than more automated and remote control actions. These small pipeline systems generally rely on the most limited resources. This proposed rule allows 30 months after the effective date of the final rule for operators of these pipeline systems to both develop and implement the necessary procedures.

Implementing changes for existing systems and facilities takes time. The situation is different for new installations and existing facilities that are significantly changed (*e.g.*, implementation of a new SCADA system). The proposal would require operators of systems with control rooms that are placed in service or significantly modified more than 12 months after the effective date of the final rule to develop procedures as part of the design and installation of the new systems and to implement those procedures when the control room is placed in service. Control rooms that will be implemented within 12 months of the effective date of the final rule are well along in design and planning and PHMSA concludes it is best to treat these facilities as existing control rooms.

Mergers and acquisitions can present a unique challenge for controllers and control rooms. Controllers must develop an understanding of the hydraulics of a new system; become familiar with new display graphics; handle an increased workload on existing consoles; learn new hardware and software systems using different instrumentation or control methods and changed alarm designations and priorities; and participate in a shadow control scheme until training is complete. Detailed plans on how to introduce each element into the remaining control room and how to train and qualify controllers on newly introduced systems must be developed. For example, each operator must develop and implement a plan that includes how controllers will provide input on alarm descriptors, how this input will be implemented, and how controllers will receive training on alarm descriptors before a system is under their authority or responsibility for monitor or control.

D. Roles and Responsibilities

The proposed rules require each operator to clearly define and document the roles and responsibilities of controllers for prompt and appropriate response to abnormal operating conditions and emergencies. Such documentation will also define the controller's authority and the pipeline operator's expectation for the controller to take action. Controllers are often the first to become aware of developing abnormal operating conditions or emergencies and can often play a critical role in response to these events. Timely and appropriate controller actions can arrest developing problems and return a pipeline system or LNG facility to normal operations. Conversely, untimely or improper controller actions can exacerbate abnormal operating conditions, which could potentially lead to incidents and accidents.

Sometimes controllers are not the first to notice a problem. Problems may be identified by field personnel or reported by the public. Controllers must know their roles in responding to these situations and in communicating with management, field staff, the public, government agencies, emergency response personnel, and other operators of pipelines or utilities that may share a common right-of-way.

For situations that pose the most significant risks to public safety and the environment, prompt action by controllers is often needed. In other situations, management may expect controllers to consult with them before taking actions. Therefore, controllers must know the limits of their responsibility and authority for making safety-related decisions and for taking safety-related actions in all situations. The proposed rule requires operators to develop processes so that management and controllers have uniform expectations and understandings about response requirements before an abnormal operating condition or emergency arises. The proposed rule would also require operators to establish processes to allow controllers to seek and receive management input in a timely manner when required.

E. Assuring Adequate Information

Controllers must have accurate and up-to-date information about the status of the pipeline system, equipment, or facilities they monitor or control. For example, they need to know pressures, flow rates, and temperatures, as well as the operating status of compressor and pump stations, the position of valves, and the availability of standby equipment that might be substituted in the event of a failure. They also need to know what effects power loss would have on equipment status. Without timely and correct information, controllers cannot take appropriate actions to control normal pipeline operations nor can they promptly identify abnormal situations and take actions to arrest event progression and prevent larger problems. This proposed rule requires each operator to develop processes to provide that controllers receive the timely and necessary information they need to fulfill their responsibilities at all times.

F. SCADA

Many pipeline operators use SCADA, DCS, or internet-based systems to allow controllers to monitor or control pipeline systems or LNG facilities remotely. SCADA is used in this document to mean SCADA, DCS or other methods of communicating data for monitoring or controlling pipeline systems and LNG facilities.

SCADA systems must be configured and programmed to provide accurate information to the controller and to transmit any command actions accurately. It is also important for controllers to recognize and react to information changes about the state of the pipeline. Cluttered or poorly organized SCADA screens may not be logical to a controller. Unless a controller quickly recognizes SCADA information, he or she may not be able to process the information into knowledge upon which to base control actions.

The API recognized the need for clear and logical SCADA displays and published a recommended practice, API RP–1165. This recommended practice provides guidance to operators to help them develop SCADA screens that display information clearly, logically, and without clutter to maximize the ability of controllers to use the information effectively. This proposed rule requires pipeline operators with SCADA systems to follow API RP–1165 or be able to demonstrate that the recommended practice is inapplicable or impracticable.

SCADA information is only useful when accurate, timely, and properly displayed. Complex SCADA systems receive information from sensors, transmitters, and other equipment located throughout an LNG plant or pipeline system and use algorithms to convert the information into a more useful form for the controller. SCADA systems must also provide for unexpected communication interruptions from one or more instruments or transmitters. The loss of a few data points must not result in a complete loss of system information or system malfunction to the controller.

SCADA systems must have a backup communication system, which is tested periodically to verify its performance. Alternatively, a pipeline operator must have an adequate means to operate manually or provisions to shut down the affected portion of the pipeline safely. Server load should also be reviewed on a regular basis and monitored for increased activity affecting controller-required tools. Operators should be aware of software-specific concerns (*e.g.*, through user-group meetings) and should develop methods to prevent these issues from affecting controller performance.

SCADA systems must have provisions to accommodate different kinds of

problems, for example, stale data. When communications problems arise, a SCADA system may present the most recent (though stale) data until data communications are restored. SCADA systems must display this stale data in a manner that is easily recognized by the controller, particularly when the data have not been updated for a significant amount of time. Not all SCADA systems are configured to provide warnings (flags) to controllers to warn of stale data. Therefore, the proposed rule requires operators to identify methods to allow controllers to recognize stale data at all times.

SCADA system integrity is usually verified when the system is initially installed by checking instrument readings and other data on each display screen. The readings and data are checked for accuracy and to ascertain that they match the readings on the corresponding field equipment or transmitters. The installation also verifies that signals issued from the SCADA panels result in the proper control of the corresponding equipment in the field. SCADA data processing is also verified during installation. While all this serves to verify the initial SCADA installation, SCADA systems, pipeline systems, and LNG facilities can change over time. Any of these changes can lead to misinformation problems for both controllers and field personnel.

To verify that existing SCADA systems are accurate, this proposed rule would require operators to conduct an initial point-to-point baseline verification for each SCADA system to validate and document that field equipment configurations agree with computer displays. Operators would check from transmitter-to-display to verify that the correct values (and units) are displayed on the SCADA screens at the correct relative locations. Operators would also verify that alarm and event functions occur at specific set-points or upon certain actions by the correct corresponding equipment and that all controlled equipment appropriately responds to SCADA inputs and outputs. This requirement is intended to verify that existing SCADA systems are accurate despite changes that may have been made without verification since the initial installation.

Operators of pipeline systems with more than 500 miles would be required to complete the baseline verification within three years of the effective date of the final rule. However, because SCADA systems for large pipeline systems can have tens of thousands of data points to check, it is not practical to require a complete verification at one time. To offer some relief for these more complex systems, the proposed rule would allow operators to credit verifications conducted up to three years before the effective date of the final rule towards the baseline verification. Operators of pipeline systems with less than 500 miles would be required to complete validation within one year of the effective date of the final rule. This reflects the relative simplicity of performing verification for these smaller systems and PHMSA's belief in the importance of prompt baseline verifications. PHMSA invites comments on the appropriateness of these time periods. We further invite comments on alternative approaches to achieve the intent of assuring baseline verification for each SCADA system. Another approach, for example, might be a risk-based schedule to build off the risk analyses most operators have previously completed for their integrity management programs.

Once the baseline SCADA system has been verified, operators should document and verify changes as they occur. Therefore, the proposed rule requires operators to verify SCADA screens versus field configurations when modifications or repairs are made to field equipment. For SCADA system changes or new SCADA systems, however, the proposed rule requires point-to-point verifications as part of the implementation process for all portions of the pipeline system or LNG facility affected by the change. The rule would also require operators to develop and implement procedures to handle system maintenance changes and SCADA point verifications such as alarm set-points, display locations, value confirmations, and the proper operation of software algorithms. Operators must make maintenance change notifications to controllers as they occur and set a maximum time limit for changes to be made and verified to the appropriate SCADA system displays and alarm features. Individual operators would also be required to develop a plan for systematic re-verification of the accuracy of the SCADA system display.

Lastly, the proposed rule would require SCADA changes brought about by mergers or buy-outs to be treated as a new SCADA system implementation and verified accordingly.

G. Shift Change

SCADA systems and other means of providing real-time information to controllers concerning the status of pipeline systems are important, but such systems are not the only information important to a controller in carrying out his duties. Controllers need to be aware of activities that have occurred, are underway, or planned that could affect pipeline operations during a shift. This includes, but is not limited to, planned modifications and maintenance activities, noted indicators of possible near-term problems including alarms, indications of any abnormal operating condition, communications concerns or malfunctions, points taken off-scan, and the unavailability of key field personnel. Field personnel must promptly inform controllers when work is done that could affect controller duties or displayed information. Under the proposal, an operator's procedures must provide for making this necessary non-computer-based information available to controllers.

PHMSA considers verbal communications important because accurate verbal contact can provide for immediate verification of maintenance activities and equipment status, and can corroborate information received from other sources. Therefore, the proposed rule requires that operators provide for timely verbal communications between controllers and field personnel. Controllers must contact field personnel, on occasion, to investigate the reason for abnormal indications, to carry out emergency response actions, or to perform actions that cannot be done remotely from the control room. Field personnel must inform controllers when equipment is taken out of service, when values are forced or locked in place, or when events that can have a near-term impact on safety occur. Field personnel must promptly contact controllers when conditions are identified that could indicate a leak or incipient accident. Field personnel should be trained and encouraged to contact the control center as quickly as possible whenever a leak is suspected. The proposed rule also requires that operators identify in procedures those circumstances, actions, and conditions for which field personnel must notify the control room.

Operators should implement individual console or system log-in features, if these are available, or record on the shift-change records the time and the name of the controller who is responsible during the shift-change procedure. While most pipelines operate 24 hours a day, seven days a week, some do not. Small pipelines, such as those dedicated to a single facility, may operate only as needed or for only certain hours of the day. Many transmission pipeline systems have implemented more sophisticated and complex control schemes and can require extensive involvement of technical personnel other than

controllers. More thorough procedures and processes are needed to manage these activities. In all cases, it is important that controllers have a complete understanding of the conditions and activities affecting the pipeline, including non-computer based information.

The proposed rule addresses this need by requiring that critical information be recorded during each shift. Oncoming controllers can review the log to make themselves aware of recent activities and current conditions, even in those cases where a pipeline is not in continuous operation and there is no ''shift change'' between controllers. Operators would demonstrate compliance with this requirement by making documented information available during regulatory inspections.

For pipelines that operate continuously, controllers are expected to interact with those who relieve them in order to communicate important information. Virtually all pipeline operators with multiple shifts expect controllers to provide such a turnover of information. Shift change is not the only time that controllers are relieved of their duties. Individual pipeline operators may relieve controllers at breaks or at times when the individual is required to perform other duties. Exchange of critical information is essential to the safe operation of pipeline facilities at these times. PHMSA's CCERT interviews with pipeline operators and controllers identified several instances where there were no formal procedures for conducting shift turnover and no clear understanding of the information that was to be communicated when personnel relief occurs. In those instances, each individual controller determined what needed to be communicated. The proposed rule requires that operators provide for exchange of information during shift turnover, including defining the minimum set of information that must be communicated (*e.g.*, by check sheet). Adequate information may vary across different parts of an operator's entire pipeline system. Each operator would be expected to define this set of information, as this information would be aligned to the specific system requirements. Operators must also provide for an overlap of controller shifts sufficient to accomplish the necessary exchange of information.

Controllers often have duties to communicate with personnel outside their companies as well. In many cases, pipelines share a common right-of-way with other pipelines or utilities. A problem on the pipeline can affect these other pipelines or utilities and controllers need to understand when it is their responsibility to notify these other companies of potential problems. Controllers also often receive calls from the public or emergency responders reporting indication of problems. Since a control room is often staffed continuously, pipeline markers usually list the control room telephone number for the public to report problems.

A controller answering a call from the public or emergency responders must obtain enough information from the caller to understand the nature of the problem. Operators should provide training for controllers to help assist them in obtaining complete and accurate information. A controller must determine whether the problem is on his pipeline or area of responsibility. If a controller determines a problem is not on the pipeline he or she controls, the controller must communicate the information to those who can address the problem, even if this is the operator of another pipeline in a shared right-of-way. Operators need to make sure that controllers know who to contact in the event of a potential problem in a shared right-of-way, regardless of which pipeline is affected.

Controllers should also be required to contact other operators in a common right-of-way when aware of a leak associated within their area of responsibility. There may be conditions when repairing a pipeline that may elevate the risk associated with another pipeline in the same corridor. For this reason, when controllers discover or are made aware of leaks in a common pipeline corridor, they should contact all of the operators in that corridor and explain the situation so that all pipeline operators can work together to minimize potential damage.

H. Fatigue

Fatigue is a key safety issue for PHMSA. The NTSB also considers fatigue one of its ''top ten'' safety concerns for all modes of transportation. Fatigue can result in a loss of vigilance or a lack of effective attention by a pipeline controller. All pipelines and facilities normally have safety systems in place to protect against accidents. The prudent use of safety systems, however, does not reduce the importance of controllers as the first line of defense in preventing accidents.

In most instances, monotony, not physical exertion, causes controller fatigue. Monitoring pipeline operations from a computer panel for many hours can be quite monotonous, especially for normal, uneventful operations during the usual overnight human rest cycle. It is important that pipeline operators take actions to help ensure that controllers are not unduly affected by fatigue and verify that controllers remain vigilant.

Key among these actions is establishing shift length and schedule rotations to protect against the onset of fatigue and providing controllers the opportunity to get sufficient rest between work shifts. Many pipeline controllers work rotating shifts; that is, a controller may work day shifts, night shifts, and possibly swing shifts within the same week or within a few weeks or a month. There has been extensive research by specialists in human behavior concerning shift work and the effect these shift changes have on sleep patterns and fatigue. Topics addressed in the research include the direction of shift rotation (*i.e.*, forward or back), the amount of time between shifts to help provide for adequate rest, and the effects of off-duty activities on fatigue during duty hours.

Many pipelines operate on 12-hour shifts, while others operate on eight-hour shifts or shifts of other lengths. PHMSA does not object to 12-hour shifts, but we do note that shift rotations have seldom been established based on research or what is best for the pipeline controllers. Instead, the CCERT team found that shift rotation and length have usually been established through management-union negotiations or because the controllers prefer a specific schedule. Moreover, we found that controllers prefer 12-hour shifts because they result in longer periods of time off. Maximizing time off, however, does not necessarily maximize the mitigation of fatigue. Operators who continue to use 12-hour shifts should have procedures that include provisions for unexpected holdovers or call-outs and they must ensure the shifts are managed in a manner that requires controllers to have adequate periods of rest between shifts to help protect against the onset of fatigue during controller shifts.

Additionally, research shows that individuals need to have eight hours of sleep per day to maintain their best performance; and that work schedules can have a detrimental impact on an individual's circadian rhythm. PHMSA recognizes that pipeline and LNG facility operators cannot control or monitor controllers' off-duty time, but operators can educate controllers on the need for adequate periods of rest. Because off-duty time activities can influence on-duty fatigue, controllers must accept responsibility for structuring their off-duty time to allow for adequate rest and eight hours of sleep. The proposed rule requires operators to train controllers and their supervisors in fatigue management

strategies and how non-work activities can contribute to fatigue. Supervisors and controllers must also be trained to recognize and mitigate the effects of fatigue among controllers on a shift. These training programs will require controllers and supervisors to exercise personal responsibility for having adequate rest and prudent fatigue management. In addition, these education programs must include information that can be shared with the family of controllers because they too need to understand that off-duty activities must allow time for adequate rest to avoid on-duty fatigue.

In many control rooms, multiple controllers work together on a shift along with a supervisor. In these circumstances, controllers can watch for signs of co-worker fatigue and supervisors can oversee assigned staff to help identify and mitigate instances of fatigue. Some control rooms, however, operate with a single controller on shift. In those instances, there is no other person present to recognize when the controller is affected by fatigue. Accordingly, the proposed rule requires operators to establish provisions to verify that a single controller remains vigilant.

While PHMSA is not establishing an overall limit on the maximum length of time a controller can work in a single shift, this proposed rule requires operators to include in their written procedures a limit on the length of time a controller can work and a requirement for adequate rest between shifts. This proposed rule will meet the requirements of the PIPES Act. The proposed rule allows operators to base the limit on the particular operating circumstances of each pipeline and to include provisions for deviations in emergency situations.

PHMSA believes operators should establish an hours-of-service limit based on its normal pattern of operations and in a manner that will preclude individual controllers from working more hours than the operator expects under normal circumstances. Operators should address unusual and emergency situations using provisions for approved exceptions that should be included in written procedures. Operators should maintain documentation of these situations.

I. Alarm Management

A principal function of SCADA systems is to ''alarm'' or notify a controller of circumstances when pressure, flow, temperature, or other key pipeline operating parameters are outside the expected norms. Many controllers acknowledge an alarm or event by silencing an audible sound or responding to a flashing indication on a control screen. Controllers must then take action to address the cause of the alarm or the effect on the pipeline or facility. In some cases immediate action is required; in other cases action can be deferred. Sometimes, the alarm may simply be related to system changes such as the expected startup of another unit and no action is required. Qualified controllers use their judgment, experience and training to manage alarm response. Management should review controllers' response to alarms and appropriately address situations that require immediate or deferred actions to maintain pipeline safety.

Alarm response and associated event information can help determine whether abnormal operating conditions are promptly recognized, that the responses to these conditions are properly handled in a timely manner, and that controller abilities are not degrading over time. Alarms and notifications can also provide information about the health and operational status of communication and SCADA systems.

The proposed rule requires two levels of alarm management review. On no less than a weekly basis, operators would be required to review pipeline operations and the alarms and events that have been received. Operators would confirm that events on the pipeline that should have triggered alarms actually did. Operators would review controller response to alarms to identify if abnormal operating conditions had occurred and that the controller took proper action in a suitable amount of time. Operators must also identify any unexplained changes in the number of alarms received or in controller management of those alarms, and take actions, as needed, to arrest any potentially degrading situations either in controller performance or equipment problems. Operators must identify ''nuisance alarms'' for which action is not required and determine whether controllers actually need to receive such notifications so that the total number of alarms is not excessive. Both nuisance alarms and an excessive number of non-nuisance alarms can contribute to a sense of complacency about alarm response. Complacency can contribute to a situation in which controllers acknowledge alarms but do not take action to clear them on a timely basis. This factor must also be considered in the weekly reviews and the associated system or instrumentation maintenance activities. However, operators may choose to capture other operational and maintenance information through alarm systems that are channeled to others responsible to manage such information.

Once each calendar year (with intervals not to exceed 15 months), the proposed rule requires that operators undertake a more detailed review of alarm configuration and management. This review must consider the number of alarms, potential systemic issues related to field equipment or the SCADA system, potential systemic issues resulting in excessive or unusual alarms, unnecessary alarms, changes in controller performance in response to alarms, and a review of alarm set-point values. Operators must also consider alarm indications of abnormal operating conditions, including identifying any that occur frequently in combination and assuring that these combinations are included in controller training. Alarm descriptors and naming conventions also need to be reviewed for clarity and consistency. Operators must consider controller workload with respect to the number and nature of alarms received. Alarms should also be reviewed for ongoing maintenance issues or communication problems that need to be solved. Incident and accident reviews should include a provision to check alarm or notification operations for any required changes. The procedure must have a mechanism to provide for controller feedback to alarm and notification modifications.

J. Change Management

Changes to the pipeline system are important and can affect the ability of a controller to do his job. System changes can affect the hydraulics of the pipeline and change the response to control inputs. It is important that controllers be aware of changes being made and that controllers are involved early in the change process to help identify and alleviate any undesirable effects on controllers and control room operations. Similarly, changes to the SCADA system, or to the instruments it monitors, can also affect a controller's understanding of conditions on the pipeline and his recognition of the need for control actions.

The proposed rule requires operators to establish thorough and frequent communications between controllers, management, and field personnel when planning and implementing changes to pipeline equipment and configuration. Maintenance procedures must ensure that problems with SCADA or field instrumentation critical to controllers are resolved promptly and properly documented. SCADA system modifications must also be coordinated with controllers and affected pipeline operating personnel. It is not always

practical to coordinate changes before they are made, particularly when a change is in response to an emergency. In those instances, operators must make affected personnel and controllers aware of the change as soon as practical and document why this occurred. When field equipment, pipeline configuration, or SCADA changes are planned in advance, coordination should also be done so that controllers who are off-duty get informed of these changes prior to implementation. Controllers shall have time to study the implications of targeted changes and to become familiar with the anticipated system changes before they are initiated. Finally, controllers shall be represented by a controller, controller supervisor or by someone very familiar with control room operations when changes that can affect pipeline hydraulics, configuration or control system changes are considered so that controller perspectives and potential impacts can be considered early in the planning process and appropriate adjustments and training can be developed.

Whenever possible, operators should thoroughly test changes on an off-line system. Management of change procedures shall also include how operators will inform controllers of changes before they operate the system, especially the controllers who are not on shift at the time the changes are made.

K. Learning From Individual Operating Experience

Events that occur on a pipeline provide one of the best opportunities to improve the operation of the pipeline. Such events include those that must be reported to PHMSA by regulation and those with little or no consequences. Reviewing the causes of an event can help identify underlying problems, which, if properly addressed, would reduce the risk of future events occurring or resulting in more significant consequences. Reviewing the response to events can help identify areas in which emergency response and abnormal operating procedures can be improved or where additional training for controllers and other personnel may be appropriate. Individual controller logs or shift notes can provide valuable insight into maintenance requirements or communication concerns, both those provided by instrumentation and those required of other employees. Reviewing these logs and working to remove problem instrumentation or communication concerns can help to maintain pipeline safety.

The proposed rule requires operators to review all reportable accidents and incidents on a routine basis to identify and correct deficiencies related to:

- Controller fatigue
- Field equipment
- Procedures
- SCADA system configuration
- SCADA system performance including communications
- Simulator or non-simulator training programs

Operators must also review non-reportable events (*e.g.*, ''close-calls'') to identify and address those that could be significant if left unaddressed or coupled with other events. Each operator would establish a definition or event threshold for which a review would be conducted. Once this definition or event threshold has been established, procedures must require that operators review information about each close-call and share information regarding the proper response with all controllers.

L. Training

Training is a key element in assuring the success of pipeline controllers in maintaining safe operations. Therefore, operators must provide controllers the necessary training to completely understand the pipeline and control systems they operate. The proposed rule would require each operator to include certain content in its controller training programs. The proposed rule includes a minimum set of elements that overlap and supplement existing OQ programs. These elements are as follows:

1. *Response to abnormal operating conditions and emergencies.* These responses are a major element of controllers' contribution to safety. Correct actions can mitigate events without significant consequences. Incorrect actions can aggravate abnormal situations and make consequences worse. Training for controllers must include emphasis on generic and task specific abnormal conditions that are likely to occur simultaneously or sequentially. Controllers shall be trained to respond to such events and to recognize them as indicators or precursors of potentially more serious situations.

2. *Simulator or tabletop exercises for training controllers to recognize abnormal operating conditions such as leaks or failures.* Some abnormal events occur infrequently. Thus, experience on the job does not necessarily prepare a controller to identify and respond to all abnormal events, nor does it verify that a controller's ability is maintained over time. Computer-based simulators or tabletop exercises afford the opportunity for controllers to practice identifying and responding to safety-significant situations that controllers may not encounter during routine shift operations. The proposed rule also requires operators to involve controllers in the development and improvement of training simulations. Operators should conduct tabletop exercises or computerized simulations that require emergency response field personnel and personnel involved with commodity movement to be involved from terminals, compressor stations, pump stations, and on the pipeline right-of-way.

3. *Training controllers to understand the operator's public awareness program in detail.* Controllers are often involved in communication with the public, particularly when the public reports unexpected events. API Recommended Practice 1162, ''Public Awareness Programs for Pipeline Operations'' (API RP–1162) recommends sharing public awareness objectives, information and material used in its public awareness program with employees. Many Public Awareness Programs include components for key employee training in public awareness and specific communication training for specific key employees. Controllers shall be considered as specific key employees if they are responsible for responding to public or emergency responder calls.[8]

4. *Providing appropriate information to the public and emergency response personnel during emergency situations.* In some cases, controllers may not ask the right questions or provide the correct response when communicating with the public or emergency responders during an emergency. Specific training will help ensure that the information controllers provide to the public and to emergency personnel will maximize public safety and that the information exchanged is complete and accurate.

5. *Periodic visits by controllers to a field installation similar to that which the controllers monitor or control.* These visits would help familiarize controllers with the equipment, field terminology, and equipment operation. They would see how weather might affect access to a specific location and observe the functions of station personnel. Normally pipeline equipment is displayed as an icon on a controller's computer screen. When it is operated or something is amiss, it may change color, flash or change shape. Controllers must understand what these changes mean in

[8] Implementation of public awareness programs conforming to API RP1162 is required for gas pipelines by § 192.616 and for hazardous liquid pipelines by § 195.440.

the field. In the past, many controllers moved up from field positions and had a thorough knowledge of field operations. Today, many pipelines hire controllers who do not have field experience and who have limited knowledge of the physical and practical aspects of pipeline operations. Providing an opportunity for controllers to actually see the equipment and talk to station personnel will help expand the controllers' awareness of site specific information. Further, discussions with field personnel in routine, non-stressful situations can help establish a familiarity that will facilitate more efficient and accurate communication during abnormal events. Ideally, controllers would visit the facilities they operate. PHMSA recognizes, however, that this is not always practical. Many pipeline systems cover extensive geographic areas, and controllers may be responsible for operating pipeline segments many hundreds of miles from the control room where they work. For this reason, the proposed rule specifies that visits should be to a representative sampling of field installations similar to those for which the controller is responsible.

6. *Review of procedures for operating setups that occur infrequently.* Day-to-day experience does little to help controllers retain knowledge related to functions not routinely performed. It is thus important that training programs emphasize and provide instruction on these unusual operating conditions.

7. *Pipeline hydraulics training sufficient to obtain a thorough knowledge of the pipeline system, especially the pipeline's response to abnormal situations.* Often, controllers know what to expect when the operating set-up changes because the controllers have seen the impact of these changes many times, but sometimes controllers do not necessarily know why flows and pressures change the way they do. A basic understanding of pipeline hydraulics, as applied to the pipeline a controller monitors, will help the controller understand what typical responses are to changes in the operating status of individual pieces of equipment and what to expect in the event of a leak or failure. This understanding will enable the controller to better identify situations outside normal operations.

8. *Specific training on how power failures affect sites of controller responsibility.* The operator should provide site-specific training to the controllers regarding the state of equipment upon power loss and what the effect will be. This will assist the controller in identifying other field resources that may be needed to properly repair or operate a location affected by natural disaster such as a flood, hurricane, tornado or earthquake.

9. *Specific system tools available to determine a leak or significant failure.* Controllers should receive training about what tools exist, including trends or other displays, that help to determine quickly the status of the pipeline or aid in leak and significant failure detection.

M. Qualification

Operators already provide for the qualification of certain individuals to evaluate their abilities and to determine that they are able to apply the necessary knowledge and skills acquired in training. The proposed rule would require additional controller qualifications to measure or verify a controller's performance, including the prompt detection of, and appropriate response to, abnormal and emergency conditions that are likely to occur. Additions to controller qualifications would be implemented in conjunction with an operator's OQ program pursuant to the existing regulations in 49 CFR parts 192, 193, and 195. The rule would not prescribe a single means of evaluating a controller's abilities. Operators can use observation of on-shift activities to perform part of this verification. Simulators and tabletop exercises can also be used to verify a controller's ability to detect conditions not seen on shift and that the controller is ready and able to take appropriate actions in response. PHMSA has found that most operators' OQ programs call for re-qualification every three years; however, this rule would require an annual qualifications review for controllers. In addition, operators would be required to provide ongoing controller performance metrics and evaluation between annual qualifications review to help detect any gradual degradation in performance.

Qualified controllers must have the physical abilities to perform the job. Most pipeline control systems use different colors to represent different operating states and display system information and status using icons and text that may vary in size depending on the complexity of an individual display. While many operators do not explicitly test controllers for colorblindness or visual acuity, it is essential that controllers be tested for these visual abilities. This does not mean that controllers who are colorblind or who lack visual acuity must be relieved of duties. Special accommodations may be needed, such as using different shapes, flashing indications, or increasing the size of icons and text on an individual controller's screen. The rule would not prescribe a specific test for these physical abilities, but operators would be required to ascertain through periodic testing and associated documentation that any deficiencies in these physical attributes would not negatively affect the controller's performance of assigned duties.

The proposed rule would also require operators to specify the reasons for which a controller's qualification must be revoked. The reasons must include extended absence or time off-duty (for a duration determined by the operator), inadequate performance, impaired abilities (*e.g.*, vision, hearing) beyond that which the operator can accommodate, influence of drugs or alcohol, and any other circumstances for which the operator considers revocation appropriate. Operators would also be required to have procedures for restoring a revoked qualification, which may include complete re-qualification, or limited testing, a period of review, shadowing, retraining, or all of these.

Lastly, PHMSA recognizes that many operators use oral examinations as part of their qualification programs. Experienced operators and trainers quiz controllers on their knowledge of various aspects of their job. PHMSA believes this can be a very effective means of judging a person's abilities. Unlike a written test, an oral examination allows the evaluator to probe apparent weaknesses in more depth. Oral examiners can inquire in more detail in areas where the candidate appears to be hesitant, weak or unsure of the answers. This can allow a more thorough evaluation of a controller's knowledge to perform required duties.

If an operator chooses to use oral examinations as part of its controller qualification program, the rule would require the operator to document the examination and include a list of the topics covered during the oral examination. This documentation will facilitate internal audits, assist with providing consistency in controller training, and allow the operator's training personnel to vary the content of future evaluations to test knowledge in other areas.

N. Validation

PHMSA considers controllers to be extremely important in providing for pipeline safety. Accordingly, PHMSA believes that it is appropriate to involve senior pipeline executives in helping to determine that controllers are qualified, that internal communication is enhanced, and that controller needs are being addressed. The proposed rule

would require that a senior executive officer validate certain aspects of controller training, qualification, and compliance with the requirements of this rule. Operators would be required to have a senior executive officer sign a validation each calendar year that confirms that the operator has:

- Conducted a review of controller qualifications and controller training and determined that both are adequate;
- Permitted only qualified controllers to operate the pipeline;
- Implemented the requirements of the rule;
- Continued to address ergonomic and fatigue factors; and
- Involved controllers in finding ways to sustain and improve safety and pipeline integrity through control room management.

O. Compliance and Deviations

The proposed rule would require operators to maintain records that demonstrate compliance with the regulation and to document any deviations from their control room management procedures. In addition, the operators would be required to report any deviations upon request by PHMSA or the appropriate state pipeline safety authority. These requirements are derived from the PIPES Act, which specifies that operators must document compliance with their human factors and control room management plans and report any deviations. Operators would be required to report deviations only when requested by PHMSA, or in the case of an intrastate pipeline facility, when requested by the appropriate state pipeline safety authority. Such a request is anticipated to occur during a pipeline safety inspection, but may occur at any time at the discretion of PHMSA or the state pipeline safety authority.

VIII. Regulatory Analyses and Notices

Privacy Act Statement

Anyone may search the electronic form of comments received in response to any of our dockets by the name of the individual submitting the comment (or signing the comment if submitted for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Executive Order 12866 and DOT Policies and Procedures

This proposed rulemaking is a significant regulatory action under Executive Order 12866 (58 FR 51735; Oct. 4, 1993), and it is a significant regulatory action under the U.S. Department of Transportation regulatory policies and procedures (44 FR 11034; Feb. 26, 1979). Therefore, the Office of Management and Budget (OMB) has received a copy of this proposed rulemaking to review.

The proposed rule is not expected to adversely affect the economy or the environment. For those costs and benefits that can be quantified the present value of net benefits are expected to be about $65 million over a ten year period after all of the requirements are implemented. The monetary costs of the rule are expected to average about $25 million per year. Therefore, within the meaning of Executive Order 12866, the proposed rule is not expected to be an economically significant regulatory action due to cost because it will not exceed the annual $100 million threshold for economic significance.

However, there is substantial congressional, industry, and public interest in control room operations and human factors management plans. The proposed rule's immediate impact is minimal because some of its components are already included in existing regulations; moreover, in some pipeline companies, other requirements are standard practice or considered to be good business practices.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), PHMSA must consider whether rulemaking actions would have a significant economic impact on a substantial number of small entities. While PHMSA does not collect information on the number of employees or revenues of pipeline operators, we do continuously seek information on the number of small pipeline operators to more fully determine any impacts our proposed regulations may have on small entities.

The Small Business Administration's criterion for defining a small entity in the hazardous liquid pipeline industry is 1,500 or fewer employees. PHMSA estimates there are 10 to 20 small entities in the hazardous liquid pipeline industry. For the gas pipeline industry, the size standard for a small natural gas gathering or transmission business is $6.5 million or less in annual revenues and the size standard for a small natural gas distribution business is 500 or fewer employees. PHMSA estimates there are about 480 natural gas transmission and gathering companies that have $6.5 million or less in annual revenues and about 1,000 natural gas distribution companies that have 500 or fewer employees. Therefore, there are a total of about 1,500 small entities that would be affected by the proposed rule.

PHMSA has considered the effects of the proposed rule on small pipeline operators. The total estimated aggregate annual costs of the rule across the entire pipeline industry over 10 years ranges from about $21 million per year to $37 million per year. Therefore, the average annual cost to the approximately 2,500 companies (large and small entities) is about $8,400 to $14,800 per year. For the larger operators with more controllers, the costs will be higher than the average. For the smaller operators with fewer controllers it will be less than average. Based on these figures, PHMSA does not believe there will be a significant impact on a substantial number of small entities, but PHMSA seeks comments on this analysis.

Executive Order 13175

PHMSA has analyzed this rulemaking according to Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Because the proposed rule would not significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

Paperwork Reduction Act

PHMSA proposes to revise the Federal pipeline safety regulations to address human factors and other components of control room management. The proposed rules would require operators of hazardous liquid pipelines, gas pipelines, and LNG facilities to amend their existing written operations and maintenance procedures, operator qualification programs, and emergency plans.

This proposed rule also contains some information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), DOT will submit a copy of the Paperwork Reduction Act analysis to OMB for its review. A copy of the analysis will also be entered in the docket. PHMSA is proposing to require pipeline operators to keep records and logs related to control room operations for inspection purposes and to have a senior executive officer of each operator validate that the operator has complied with the regulatory requirements, reviewed its qualification and training, permitted only qualified controllers to operate the pipeline, addressed fatigue factors, and involved controllers in finding improvements. The record keeping requirements in the proposed rule are consistent with good business practices

and are designed to enhance current control room management practices.

To calculate the information collection burden for the record keeping related to control room management practices, PHMSA estimates there are approximately 2,500 pipeline and LNG facility operators that would need to keep records and logs and that it would take approximately one hour per week, per operator to generate and maintain the necessary records. Therefore, PHMSA calculates it would take slightly more than 130,000 hours per year for the 2,500 pipeline operators to maintain the necessary records. PHMSA expects that most operators currently maintain records and logs for inspection purposes and that they generate records on a daily basis. Therefore, we estimate the cost for the industry would be negligible since controllers generally perform this function as part of the control room operations. PHMSA acknowledges, however, that there may be some additional cost for storage and filing, depending on what the records contain and how they are packaged. Assuming that operators store between two and four cubic feet of records (at $23.00 per cubic foot) within their facility per year, PHMSA estimates that it would cost between $115,000 and $230,000 annually to store and maintain the records for inspection purposes.

Additionally, PHMSA estimates there are approximately 3,420 controllers in the pipeline industry and that it would take approximately one hour per year, per employee to document performance appraisals. Therefore, PHMSA calculates it would take pipeline operators approximately 3,420 hours per year to document employees' performance. We estimate it would take a senior official approximately one-half hour to review and sign-off on a validation document for each controller. PHMSA estimates the annual cost would be between $76,950 and $153,900 depending on the average wage rate used in the calculation. The lower bound uses the average wage rate for a General Operations Manager published by the Bureau of Labor Statistics of $45.00 per hour ($22.50 per half-hour), while the upper bound uses the industry estimates of $90.00 per hour ($45.00 per half-hour). Therefore, PHMSA concludes that this proposed rule contains only minor additional paperwork burden and procedure implementation.

Pursuant to 44 U.S.C. 3506(c)(2)(B), the PHMSA solicits comments concerning: Whether these information collection requirements are necessary for PHMSA to properly perform its functions, including whether the information has practical utility; the accuracy of PHMSA's estimates of the burden of the information collection requirements; the quality, utility, and clarity of the information to be collected; and whether the burden of collecting information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, may be minimized.

Unfunded Mandates Reform Act of 1995

This proposed rulemaking does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $132 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the proposed rulemaking.

National Environmental Policy Act

PHMSA has analyzed the proposed rulemaking for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and preliminarily determined the proposed rulemaking may provide beneficial impacts on the quality of the human environment. If pipeline operators comply with the technical elements of the proposed rule, this would reduce adverse impacts on the physical environment by reducing the number and severity of pipeline releases. For example, by addressing the exchange of information at shift change and the length of shifts to reduce controller fatigue, pipeline operators could reduce the number of incidents and the consequences of releases that may harm the physical environment. Similarly, the review of SCADA procedures and alarm audits will lead to the use of better technology, which will have a positive impact on operator response to abnormal operating conditions, accidents, and incidents that have the potential for adverse environmental impacts. The following elements of the proposed rule will also lead to a better functioning control room and fewer possibilities for environmental degradation: Involving controllers when planning and implementing changes in operations; maintaining strong communications between controllers and field personnel; determining how to establish, maintain, and review controller qualifications, abilities and performance metrics, with particular attention to response to abnormal operating conditions; and analyzing operating experience including accidents and incidents for possible involvement of the SCADA system, controller performance, and fatigue. PHMSA's analysis suggests there are no adverse significant environmental impacts associated with the proposed rule. The draft environmental assessment is available for review and comment in the docket. PHMSA will make a final determination on environmental impact after reviewing the comments on this proposal.

Executive Order 13132

PHMSA has analyzed the proposed rulemaking according to Executive Order 13132 (''Federalism''). The proposal does not have a substantial direct effect on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. The proposed rulemaking does not impose substantial direct compliance costs on State and local governments. This proposed regulation would not preempt state law for intrastate pipelines. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Executive Order 13211

Transporting gas and hazardous liquids impacts the nation's available energy supply. However, this proposed rulemaking is not a ''significant energy action'' under Executive Order 13211 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, the Administrator of the Office of Information and Regulatory Affairs has not identified this proposal as a significant energy action.

List of Subjects

49 CFR Part 192

Incorporation by reference, Gas, Natural gas, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 193

Liquefied natural gas, Incorporation by reference, Pipeline safety, and Reporting and recordkeeping requirements.

49 CFR Part 195

Ammonia, Carbon dioxide, Incorporation by reference, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

For the reasons provided in the preamble, PHMSA proposes to amend 49 CFR part 192, 193, and 195 as follows:

PART 192—TRANSPORTATION OF NATURAL GAS AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

1. The authority citation for part 192 is revised to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60116, 60118, and 60137; and 49 CFR 1.53.

2. In § 192.3, add definitions for ''alarm,'' ''control room,'' ''controller,'' and ''Supervisory Control and Data Acquisition System (SCADA)'' as follows:

§ 192.3 Definitions.

* * * * *

Alarm means an indication provided by SCADA or similar monitoring system that a parameter is outside normal or expected operating conditions.

Control room means a central location or local station at which a control panel, computerized device, or other instrument is used by a controller to monitor or control all or part of a pipeline facility or a component of a pipeline facility.

Controller means an individual who uses a control panel, computerized device, or other equipment to monitor or control all or part of a pipeline facility that the individual cannot directly observe with the naked eye. An individual who operates equipment locally, but who cannot see the equipment respond without using a closed circuit television system or other external device, is a controller when performing this activity regardless of job title or whether actions are overseen by another controller or supervisor. An individual who performs these functions on a part time basis is considered a controller only when performing these functions.

* * * * *

Supervisory Control and Data Acquisition System (SCADA) means a computer-based system that gathers field data, provides a structured view of pipeline system or facility operations, and may provide a means to control pipeline operations.

* * * * *

3. In § 192.7, amend the table in paragraph (c)(2) by adding item B.(7) to read as follows:

§ 192.7 What documents are incorporated by reference partly or wholly in this part?

* * * * *

(c) * * *

(2) * * *

*	*	*	*	*	*	*
B. * * *						
(7) API Recommended Practice 1165 ''Recommended Practice for Pipeline SCADA Displays,'' (January 2007) ..... § 192.631(c)(1)						
*	*	*	*	*	*	*

4. Amend § 192.605 by adding paragraph (b)(12) to read as follows:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

* * * * *

(b) * * *

(12) Implementing the applicable control room management procedures required by § 192.631.

* * * * *

5. Amend § 192.615 by adding paragraph (a)(11) to read as follows:

§ 192.615 Emergency plans.

(a) * * *

(11) Actions required to be taken by a controller during an emergency in accordance with § 192.631.

* * * * *

6. Add § 192.631 to subpart L to read as follows:

§ 192.631 Control room management.

(a) *General.* Each operator of a pipeline facility with at least one controller and control room must have and follow written control room management procedures that implement the requirements of this section. The procedures must be integrated, as appropriate, into the operator's written manual of operations and maintenance procedures required by § 192.605, written qualification program required by § 192.805, and written emergency plans required by § 192.615. The operator must develop and implement the procedures no later than the dates in the following table.

Control room type	Develop procedures by:	Implement procedures by:
(1) Remote operations (control and/or monitoring) of gas transmission pipelines.	[insert date 12 months after effective date of final rule].	[insert date 24 months after effective date of final rule].
(2) Remote operations of equipment within a single site (*e.g.*, compressor station).	[insert date 24 months after effective date of final rule].	[insert date 30 months after effective date of final rule].
(3) Gas distribution pipelines	[insert date 24 months after effective date of final rule].	[insert date 24 months after effective date of final rule].
(4) Gas pipelines with local control only	[insert date 30 months after effective date of final rule].	[insert date 30 months after effective date of final rule].
(5) Control rooms or local control stations placed in service after [insert effective date of the final rule], but before [insert date 12 months after the effective date of final rule].	12 months after placement in service	12 months after placement in service.
(6) Control rooms or local control stations placed in service after [insert date 12 months after the effective date of final rule].	Before placing in service	Upon placing in service.

(b) *Roles and responsibilities.* Each operator must define the roles and responsibilities of a controller during normal, abnormal, and emergency operating conditions. To provide for a controller's prompt and appropriate response to operating conditions, each operator must define:

(1) A controller's authority and responsibility to make decisions and take actions during normal operations.

(2) A controller's role when an abnormal operating condition is detected, even if the controller is not the first to detect the condition, including the controller's responsibility to take

specific actions and to communicate with others.

(3) A controller's role during an emergency, even if the controller is not the first to detect the emergency, including the controller's responsibility to take specific actions and to communicate with others.

(4) A controller's responsibility to provide timely notification and coordination with the operator of another pipeline in a common corridor when a leak or failure is suspected, including upon receipt of a notification from the public concerning a suspected leak on an asset owned or operated by the other company but located in the same common corridor or right-of-way.

(5) A method of recording when a controller is responsible for monitoring or controlling any portion of a pipeline facility by implementing an individual console or a system log-in feature or by documenting in the shift records the time and name of each controller who assumed the responsibility during a shift-change or other hand-over of responsibility.

(c) *Provide adequate information.* Each operator must provide each controller with the information necessary for the controller to carry out the roles and responsibilities defined by the operator and must verify that a controller knows the equipment, components and the effects of the controller's actions on the pipeline or pipeline facilities under the controller's control. Each operator must:

(1) Provide a controller with accurate, adequate, and timely data concerning operation of the pipeline facility. Wherever a SCADA system is used, the operator must implement API RP–1165 (incorporated by reference, see § 192.7) in its entirety, unless the operator can adequately demonstrate that a provision of API RP–1165 is not applicable or is impracticable in the SCADA system used.

(2) Validate that any SCADA system display accurately depicts field equipment configuration by completing all of the following:

(i) Conduct and document a point-to-point baseline verification between field equipment and all SCADA system displays to verify 100 percent of the system displays. An operator must complete the baseline verification no later than [insert date three years after effective date of final rule] or by [insert date one year after effective date of final rule] for an operator of a pipeline system containing less than 500 miles of pipeline. An operator may use any documented point-to-point verification completed after [insert date three years before effective date of final rule] to meet some or all of this baseline verification. A point-to-point verification must include equipment locations, ranges, alarm set-point values, alarm activation, required alarm visual or audible response, and proper equipment or software response to SCADA system values.

(ii) Verify that SCADA displays accurately depict field configuration when any modification is made to field equipment or applicable software and conduct a point-to-point verification for associated changes.

(iii) Perform a point-to-point verification as part of implementing a SCADA system change for all portions of the pipeline system or facility affected by the change.

(iv) Develop a plan for systematic re-verification of the accuracy of the SCADA system display.

(3) Establish a means for timely verbal communication among a controller, management, and field personnel.

(4) Identify circumstances that require field personnel to promptly notify the controller. These circumstances must include the identification by field personnel of a leak or situation that could reasonably be expected to develop into an incident if left unaddressed.

(5) Define and record critical information during each shift.

(6) Provide for the exchange of information when a shift changes or when another controller assumes responsibility for operations for any reason.

(7) Establish sufficient overlap of controller shifts to permit the exchange of necessary information.

(8) Periodically test and verify a backup communication system or provide adequate means for manual operation or shutdown of the affected portion of the pipeline safely.

(d) *Fatigue mitigation.* Each operator must implement methods to prevent controller fatigue that could inhibit a controller's ability to carry out the roles and responsibilities defined by the operator. To protect against the onset of fatigue, each operator must:

(1) Establish shift lengths and schedule rotations that provide controllers off-duty time sufficient to achieve eight hours of continuous sleep;

(2) Educate a controller and his supervisor in fatigue mitigation strategies and how off-duty activities contribute to fatigue;

(3) Train a controller and his supervisor to recognize and mitigate the effects of fatigue;

(4) Implement additional measures to monitor for fatigue when a single controller is on duty; and

(5) Establish a maximum limit on controller hours-of-service, which may include an exception during an emergency with appropriate management approval. An operator must specify emergency situations for which a deviation from the hours-of-service maximum limit is permitted.

(e) *Alarm management.* Each operator using a SCADA system must assure appropriate controller response to alarms and notifications. An operator must:

(1) Review SCADA operations at least once each week for:

(i) Events that should have resulted in alarms or event indications that did not do so;

(ii) Proper and timely controller response to alarms or events;

(iii) Identification of unexplained changes in the number of alarms or controller management of alarms;

(iv) Identification of nuisance alarms;

(v) Verification that the number of alarms received is not excessive;

(vi) Identification of instances in which alarms were acknowledged but associated response actions were inadequate or untimely;

(vii) Identification of abnormal or emergency operating conditions and a review of controller response actions;

(viii) Identification of system maintenance issues;

(ix) Identification of systemic problems, server load, or communication problems;

(x) Identification of points that have been taken off scan or that have had forced or manual values for extended periods; and

(xi) Comparison of controller logs or shift notes to SCADA alarm records to identify maintenance requirements or training needs.

(2) Review SCADA configuration and alarm management operations at least once each calendar year but at intervals not to exceed 15 months. At a minimum, reviews must include consideration of the following factors:

(i) Number of alarms;

(ii) Potential systemic issues;

(iii) Unnecessary alarms;

(iv) Individual controller's performance changes over time regarding alarm or event response;

(v) Alarm indications of abnormal operating conditions;

(vi) Recurring combinations of abnormal operating conditions and the inclusion of such combinations in controller training;

(vii) Alarm indications of emergency conditions;

(viii) Individual controller workload;

(ix) Clarity of alarm descriptors to the controllers so controllers fully

understand the meaning and nature of each alarm; and

(x) Verification of correct alarm set-point values.

(3) Promptly address all deficiencies identified in the weekly and calendar year SCADA reviews.

(f) *Change management.* Each operator must establish thorough and frequent communications between a controller, management, and field personnel when planning and implementing physical changes to pipeline equipment and configuration. Field personnel must be required to promptly notify a controller when emergency conditions exist or when performing maintenance and making field changes.

(1) Maintenance procedures must include tracking and repair of controller-identified problems with the SCADA system or field instrumentation to provide for prompt response.

(2) SCADA system modifications must be coordinated in advance to allow enough time for adequate controller training and familiarization unless such modifications are made during an emergency response or recovery operation.

(3) An operator shall seek control room participation when pipeline hydraulic or configuration changes are being considered.

(4) Merger, acquisition, and divestiture plans must be developed and used to establish and conduct controller training and qualification prior to the implementation of any changes to the controller's responsibilities.

(5) Changes to alarm set-point values, automated routine software, and relief valve settings must be communicated to the controller prior to implementation.

(6) An operator must thoroughly document and keep records for each of these occurrences.

(g) *Operating experience.*

(1) Each operator must review control room operations following any event that must be reported as an incident pursuant to 49 CFR part 191 to determine and correct, where necessary, deficiencies related to:

(i) Controller fatigue;

(ii) Field equipment;

(iii) The operation of any relief device;

(iv) Procedures;

(v) SCADA system configuration;

(vi) SCADA system performance;

(vii) Accuracy, timeliness, and portrayal of field information on SCADA displays; and

(viii) Simulator or non-simulator training programs.

(2) Each operator must establish a definition or threshold for close-call events to evaluate event significance. For those events the operator determines to be significant, the operator must conduct the review required by paragraph (g)(1) of this section and the operator must share the information with all controllers.

(3) Each operator must review the accuracy and timeliness of SCADA data and how it is portrayed on displays.

(h) *Training.* Each operator must establish a training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator must train each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements:

(1) Responding to abnormal operating conditions likely to occur simultaneously or in sequence.

(2) Use of a simulator or non-computerized (tabletop) method to train controllers to recognize abnormal operating conditions, in particular leak and failure events. Simulations and tabletop exercises must include representative communications between controllers and individuals that operators would expect to be involved during actual events. Controllers will participate in improvement and development of tabletop or simulation training scenarios.

(3) Providing appropriate information to the public and emergency response personnel during emergency situations, and informing controllers of the information being provided to the public or emergency responders under § 192.616 so that the controllers can understand the context in which this information will be received.

(4) On-site visits by controllers to a representative sampling of field installations similar to those for which each controller is responsible to familiarize themselves with the equipment and with station personnel functions.

(5) Review of procedures for pipeline operating setups that are periodically, but infrequently used.

(6) Hydraulic pipeline training that is sufficient to obtain a thorough knowledge of the pipeline system, especially during the development of abnormal operating conditions.

(7) Site specific training on equipment failure modes.

(8) Specific training on system tools available to determine a leak or significant failure and specific training on other operator contact protocols when there is reason to suspect a leak in a common pipeline corridor or right-of-way.

(i) *Qualification.* An operator must have a program in accordance with subpart N of this part to determine that each controller is qualified. An operator's procedures for the qualification of controllers must include provisions to:

(1) Measure and verify a controller's performance including the controller's ability to detect abnormal and emergency conditions promptly and to respond appropriately.

(2) Evaluate a controller's physical abilities, including hearing, colorblindness (color perception), and visual acuity, which could affect the controller's ability to perform the assigned duties.

(3) Evaluate a controller's qualifications at least once each calendar year, but at intervals not to exceed 15 months.

(4) Implement methods to address gradual degradation in performance or physical abilities in a controller.

(5) Revoke a controller's qualification for extended time off-duty or absence (of a duration determined by the operator based on the complexity and significance of the controller's role), inadequate performance, impaired physical ability beyond what the operator can accommodate, influence of drugs or alcohol, or any other reason determined by the operator to be necessary to support the safe operation of a pipeline facility.

(6) Restore a revoked qualification by specifying the circumstances for which a complete re-qualification is required, and the circumstances for which other means of restoration may be used, such as a period of review, shadowing, retraining, or all of these.

(7) Document when an oral examination is used as the means of evaluation, including the topics covered.

(8) Prohibit individuals without a current controller qualification from performing the duties of a controller.

(j) *Validation.* An operator must have a senior executive officer validate by signature not later than the date by which control room management procedures must be implemented (see paragraph (a) of this section), and annually thereafter by March 15 of each year, that the operator has:

(1) Conducted a review of controller qualification and training programs and has determined both programs to be adequate;

(2) Permitted only qualified controllers to operate the pipeline;

(3) Implemented the requirements of this section;

(4) Continued to address ergonomic and fatigue factors; and

(5) Involved controllers in finding ways to sustain and improve safety and pipeline integrity through control room management.

(k) *Compliance and deviations.* An operator must maintain for review during inspection:

(1) Records that demonstrate compliance with the requirements of this section; and

(2) Documentation of decisions and analyses to support any deviation from the procedures required by this section. An operator must report any such deviation to PHMSA upon request, or in the case of an intrastate pipeline facility regulated by a state, upon request by the state pipeline safety authority.

7. Amend § 192.805 by adding paragraph (j) to read as follows:

§ 192.805 Qualification program.

* * * * *

(j) Incorporate requirements applicable to controller qualification in accordance with § 192.631.

PART 193—LIQUEFIED NATURAL GAS FACILITIES: FEDERAL SAFETY STANDARDS

8. The authority citation for part 193 is revised to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60103, 60104, 60108, 60109, 60110, 60113, 60116 and 60118, and 60137; and 49 CFR 1.53.

9. In § 193.2007 add definitions for ''alarm,'' ''control room,'' ''controller,'' and ''Supervisory Control and Data Acquisition System (SCADA)'' as follows:

§ 193.2007 Definitions.

* * * * *

Alarm means an indication provided by SCADA or similar monitoring system that a parameter is outside normal or expected operating conditions.

* * * * *

Control room means a central location or local station at which a control panel, computerized device, or other instrument is used by a controller to monitor or control all or part of an LNG plant.

Controller means an individual who uses a control panel, computerized device, or other equipment to monitor or control all or part of an LNG plant that the individual cannot directly observe with the naked eye. An individual who operates equipment locally, but who cannot see the equipment respond without using a closed circuit television system or other external device, is a controller when performing this activity regardless of job title or whether actions are overseen by another controller or supervisor. An individual who performs these functions on a part time basis is considered a controller only when performing these functions.

* * * * *

Supervisory Control and Data Acquisition System (SCADA) means a computer-based system that gathers field data, provides a structured view of pipeline system or facility operations, and may provide a means to control facility operations.

* * * * *

10. Amend § 193.2013 by adding item F. to the list in paragraph (b) and by adding item F. to the table in paragraph (c) to read as follows:

§ 193.2013 Incorporation by reference.

* * * * *

(b) * * *

F. American Petroleum Institute (API), 1220 L Street, NW., Washington, DC 20005–4070.

(c) * * *

*	*	*	*	*	*	*
F. American Petroleum Institute (API): (1) API Recommended Practice 1165 ''Recommended Practice for Pipeline SCADA Displays,'' (January 2007).					§ 193.2523(c)(1)	

11. Revise § 193.2441 to read as follows:

§ 193.2441 Control room.

Each LNG plant must have a control room from which operations and warning devices are monitored as required by this part. A control room must have the following capabilities and characteristics:

(a) It must be located apart or protected from other LNG facilities so that it is operational during a controllable emergency.

(b) Each remotely actuated control system and each automatic shutdown control system required by this part must be operable from the control room.

(c) Each control room must have personnel in continuous attendance while any of the components under its control are in operation, unless the control is being performed from another control room that has personnel in continuous attendance.

(d) If more than one control room is located at an LNG Plant, each control room must have more than one means of communication with each other control room.

(e) Each control room must have a means of communicating a warning of hazardous conditions to other locations within the plant frequented by personnel.

12. Amend § 193.2503 by adding paragraph (h) to read as follows:

§ 193.2503 Operating procedures.

* * * * *

(h) Implementing the applicable control room management procedures required by § 193.2523.

13. Amend § 193.2509 by adding paragraph (b)(5) to read as follows:

§ 193.2509 Emergency procedures.

* * * * *

(b) * * *

(5) Actions required to be taken by a controller during an emergency in accordance with § 193.2523.

14. Add § 193.2523 to subpart F to read as follows:

§ 193.2523 Control room management.

(a) *General.* Each operator must have and follow written control room management procedures that implement the requirements of this section. The procedures must be integrated, as appropriate, into the written operating procedures manuals required by § 193.2503, written emergency procedures required by § 193.2509, and written training plans required by § 193.2713. For LNG plants that exist on [insert effective date of final rule], operators must develop the procedures by [insert date 12 months after effective date of final rule] and implement them by [insert date 24 months after effective date of final rule]. For LNG plants placed in service after [insert effective date of final rule], but before [insert date 12 months after effective date of final rule], procedures must be developed and implemented no later than 12 months after placing the plant in service. For LNG plants placed in service after [insert date 12 months after the effective date of final rule], procedures must be developed before

the plant begins operation and must be implemented when operations commence.

(b) *Roles and responsibilities.* Each operator must define the roles and responsibilities of a controller during normal, abnormal, and emergency operating conditions. To provide for a controller's prompt and appropriate response to operating conditions, each operator must define:

(1) A controller's authority and responsibility to make decisions and take actions during normal operations.

(2) A controller's role when an abnormal operating condition is detected, even if the controller is not the first to detect the condition, including the controller's responsibility to take specific actions and to communicate with others.

(3) A controller's role during an emergency, even if the controller is not the first to detect the emergency, including the controller's responsibility to take specific actions and to communicate with others.

(4) A method of recording when a controller is responsible for monitoring or controlling a pipeline facility or portion thereof by implementing an individual console or a system log-in feature or by documenting in the shift records the time and name of each controller who assumed the responsibility during a shift-change or other hand-over of responsibility.

(c) *Provide adequate information.* Each operator must provide each controller with the information necessary for the controller to carry out the roles and responsibilities defined by the operator and must verify that a controller knows the equipment, components, and the effects of the controller's actions on the facilities under the controller's control. Each operator must:

(1) Provide a controller with accurate, adequate, and timely data concerning operation of the facility. Wherever a SCADA system is used, the operator must implement API RP–1165 (incorporated by reference, see § 193.2013) in its entirety, unless the operator can adequately demonstrate that a provision of API RP–1165 is not applicable or is impracticable in the SCADA system used.

(2) Validate that any SCADA system display accurately depicts field equipment configuration by completing all of the following:

(i) Conduct and document a baseline point-to-point verification between field equipment and all SCADA system displays to verify 100 percent of the system displays. An operator must complete the baseline verification no later than [insert date 2 years after effective date of final rule]. An operator may use any documented point-to-point verification completed after [insert date three years before effective date of final rule] to meet some or all of this baseline verification. A point-to-point verification must include equipment locations, ranges, alarm set-point values, alarm activation, required alarm visual or audible response, and proper equipment or software response to SCADA system value.

(ii) Verify that SCADA displays accurately depict field configuration when any modification is made to field equipment or applicable software and conduct a point-to-point verification for associated changes.

(iii) Perform a point-to-point verification as part of implementing a SCADA system change for all portions of the LNG facility affected by the change.

(iv) Develop a plan for systematic re-verification of the accuracy of the SCADA system display.

(3) Establish a means for timely verbal communication among a controller, management, and field personnel.

(4) Identify circumstances that require field personnel to promptly notify the controller. These circumstances must include the identification by field personnel of a leak or situation that could reasonably be expected to develop into an incident if left unaddressed.

(5) Define and record critical information during each shift.

(6) Provide for the exchange of information when a shift changes or when another controller assumes responsibility for operations for any reason.

(7) Establish sufficient overlap of controller shifts to permit the exchange of necessary information.

(d) *Fatigue mitigation.* Each operator must implement methods to prevent controller fatigue that could inhibit a controller's ability to carry out the roles and responsibilities defined by the operator. To protect against the onset of fatigue, each operator must:

(1) Establish shift lengths and schedule rotations that provide controllers off-duty time sufficient to achieve eight hours of continuous sleep;

(2) Educate a controller and the controller's supervisor in fatigue mitigation strategies and how off-duty activities contribute to fatigue;

(3) Train a controller and his supervisor to recognize and mitigate the effects of fatigue;

(4) Implement additional measures to monitor for fatigue when a single controller is on duty; and

(5) Establish a maximum limit on controller hours-of-service, which may include an exception during an emergency with appropriate management approval. An operator must specify emergency situations for which a deviation from the hours-of-service maximum limit is permitted.

(e) *Alarm management.* Each operator using a SCADA system must assure appropriate controller response to alarms and notifications. An operator must:

(1) Review SCADA operations at least once each week for:

(i) Events that should have resulted in alarms or event indications that did not do so;

(ii) Proper and timely controller response to alarms or events;

(iii) Identification of unexplained changes in the number of alarms or controller management of alarms;

(iv) Identification of nuisance alarms;

(v) Verification that the number of alarms received is not excessive;

(vi) Identification of instances in which alarms were acknowledged but associated response actions were inadequate or untimely;

(vii) Identification of abnormal or emergency operating conditions and a review of controller response actions;

(viii) Identification of system maintenance issues;

(ix) Identification of systemic problems, server load, or communication problems;

(x) Identification of points that have been taken off scan or that have had forced or manual values for extended periods; and

(xi) Comparison of controller logs or shift notes to SCADA alarm records to identify maintenance requirements or training needs.

(2) Review SCADA configuration and alarm management operations at least once each calendar year but at intervals not to exceed 15 months. At a minimum, reviews must include consideration of the following factors:

(i) Number of alarms;

(ii) Potential systemic issues;

(iii) Unnecessary alarms;

(iv) Individual controller's performance changes over time regarding alarm or event response;

(v) Alarm indications of abnormal operating conditions;

(vi) Recurring combinations of abnormal operating conditions and the inclusion of such combinations in controller training;

(vii) Alarm indications of emergency conditions;

(viii) Individual controller workload;

(ix) Clarity of alarm descriptors to the controllers so controllers fully

understand the meaning and nature of each alarm; and

(x) Verification of correct alarm set-point values.

(3) Promptly address all deficiencies identified in the weekly and calendar year SCADA reviews.

(f) *Change management.* Each operator must establish thorough and frequent communications between a controller, management, and field personnel when planning and implementing physical changes to facility equipment and configuration. Field personnel must be required to promptly notify a controller when emergency conditions exist or when performing maintenance and making field changes.

(1) Maintenance procedures must include tracking and repair of controller-identified problems with the SCADA system or field instrumentation to provide for prompt response.

(2) SCADA system modifications must be coordinated in advance to allow enough time for adequate controller training and familiarization unless such modifications are made during an emergency response or recovery operation.

(3) An operator shall seek control room participation when LNG plant hydraulic or configuration changes are being considered.

(4) Merger, acquisition, and divestiture plans must be developed and used to establish and conduct controller training and qualification prior to the implementation of any changes to the controller's responsibilities.

(5) Changes to alarm set-point values, automated routine software, and relief valve settings must be communicated to the controller prior to implementation.

(6) An operator must thoroughly document and keep records for each of these occurrences.

(g) *Operating experience.*

(1) Each operator must review control room operations following any event that must be reported as an incident pursuant to 49 CFR part 191 to determine and correct, where necessary, deficiencies related to:

(i) Controller fatigue;

(ii) Field equipment;

(iii) The operation of any relief device;

(iv) Procedures;

(v) SCADA system configuration;

(vi) SCADA system performance;

(vii) Accuracy, timeliness, and portrayal of field information on SCADA displays; and

(viii) Simulator or non-simulator training programs.

(2) Each operator must establish a definition or threshold for close-call events to evaluate event significance. For those events the operator determines to be significant, the operator must conduct the review required by paragraph (g)(1) of this section and the operator must share the information with all controllers.

(3) Each operator must review the accuracy and timeliness of SCADA data and how it is portrayed on displays.

(h) *Training.* Each operator must establish a training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator must train each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements:

(1) Responding to abnormal operating conditions likely to occur simultaneously or in sequence.

(2) Use of a simulator or non-computerized (tabletop) method to train controllers to recognize abnormal operating conditions, in particular leak and failure events. Simulations and tabletop exercises must include representative communications between controllers and individuals that operators would expect to be involved during actual events. Controllers will participate in improvement and development of tabletop or simulation training scenarios.

(3) Providing appropriate information to the public and emergency response personnel during emergency situations, and informing controllers of the information being provided to the public or emergency responders per the operator's procedures, if any, so that the controllers can understand the context in which this information will be received.

(4) Review of procedures for LNG operating configurations that are periodically, but infrequently used.

(5) Hydraulic pipeline training that is sufficient to obtain a thorough knowledge of the LNG plant's system, especially during the development of abnormal operating conditions.

(6) Site specific site training on equipment failure modes.

(7) Specific training on system tools available to determine a leak or significant failure.

(i) *Qualification.* An operator must have a program in accordance with § 193.2707 to determine that each controller is qualified. An operator's procedures for the qualification of controllers must include provisions to:

(1) Measure and verify a controller's performance including the controller's ability to detect abnormal and emergency conditions promptly and to respond appropriately.

(2) Evaluate a controller's physical abilities, including hearing, colorblindness (color perception), and visual acuity, which could affect the controller's ability to perform the assigned duties.

(3) Evaluate a controller's qualifications at least once each calendar year, but at intervals not to exceed 15 months.

(4) Implement methods to address gradual degradation in performance or physical abilities in a controller.

(5) Revoke a controller's qualification for extended time off-duty or absence (of a duration determined by the operator based on the complexity and significance of the controller's role), inadequate performance, impaired physical ability beyond what the operator can accommodate, influence of drugs or alcohol, or any other reason determined by the operator to be necessary to support the safe operation of an LNG plant.

(6) Restore a revoked qualification by specifying the circumstances for which a complete re-qualification is required, and the circumstances for which other means of restoration may be used, such as a period of review, shadowing, retraining, or all of these.

(7) Document when an oral examination is used as the means of evaluation, including the topics covered.

(8) Prohibit individuals without a current controller qualification from performing the duties of a controller.

(j) *Validation.* An operator must have a senior executive officer validate by signature not later than the date by which control room management procedures must be implemented (see paragraph (a) of this section), and annually thereafter by March 15 of each year, that the operator has:

(1) Conducted a review of controller qualification and training programs and has determined both programs to be adequate;

(2) Permitted only qualified controllers to operate the LNG plant;

(3) Implemented the requirements of this section;

(4) Continued to address ergonomic and fatigue factors; and

(5) Involved controllers in finding ways to sustain and improve safety through control room management.

(k) *Compliance and deviations.* An operator must maintain for review during inspection:

(1) Records that demonstrate compliance with the requirements of this section; and

(2) Documentation of decisions and analyses to support any deviation from

the procedures required by this section. An operator must report any such deviation to PHMSA upon request, or in the case of an intrastate pipeline facility regulated by a state, upon request by the state pipeline safety authority.

15. Amend § 193.2713 by adding paragraph (a)(4) to read as follows:

§ 193.2713 Training: operations and maintenance.

* * * * *

(a) * * *

(4) All controllers to carry out the control room management procedures under § 193.2523 that relate to their assigned functions.

* * * * *

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

16. The authority citation for part 195 is revised to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60116, 60118, and 60137; and 49 CFR 1.53.

17. In § 195.2, add definitions for ''alarm'' ''control room,'' ''controller,'' and ''Supervisory Control and Data Acquisition System (SCADA)'' as follows:

§ 195.2 Definitions.

* * * * *

Alarm means an indication provided by SCADA or similar monitoring system that a parameter is outside normal or expected operating conditions.

* * * * *

Control room means a central location or local station at which a control panel, computerized device, or other instrument is used by a controller to monitor or control all or part of a pipeline facility or a component of a pipeline facility.

Controller means an individual who uses a control panel, computerized device, or other equipment to monitor or control all or part of a pipeline facility that the individual cannot directly observe with the naked eye. An individual who operates equipment locally, but who cannot see the equipment respond without using a closed circuit television system or other external device, is a controller when performing this activity regardless of job title or whether actions are overseen by another controller or supervisor. An individual who performs these functions on a part time basis is considered a controller only when performing these functions.

* * * * *

Supervisory Control and Data Acquisition System (SCADA) means a computer-based system that gathers field data, provides a structured view of pipeline system or facility operations, and may provide a means to control pipeline operations.

* * * * *

18. In § 195.3(c), amend the table by adding item B.(18) to read as follows:

§ 195.3 Incorporation by reference.

* * * * *

(c) * * *

*	*	*	*	*	*	*
B. * * *						
(18) API Recommended Practice 1165 ''Recommended Practice for Pipeline SCADA Displays,'' (January 2007)						§ 195.454(c)(1)
*	*	*	*	*	*	*

19. Amend § 195.402 by adding paragraphs (c)(15) and (e)(10) to read as follows:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

* * * * *

(c) * * *

(15) Implementing the applicable control room management procedures required by § 195.454.

* * * * *

(e) * * *

(10) Implementing actions required to be taken by a controller during an emergency, in accordance with § 195.454.

* * * * *

20. Add § 195.454 to subpart F to read as follows:

§ 195.454 Control room management.

(a) *General.* Each operator of a pipeline facility with at least one controller and control room must have and follow written control room management procedures that implement the requirements of this section. The procedures must be integrated, as appropriate, into the operator's written manuals of procedures required by § 195.402, and written qualification program required by § 195.505. The operator must develop and implement the procedures no later than the dates in the table below.

Control room type	Develop procedures by:	Implement procedures by:
(1) Remote operations (control and/or monitoring) of pipelines.	[insert date 12 months after effective date of final rule].	[insert date 24 months after effective date of final rule].
(2) Remote operations of equipment within a single site (*e.g.*, pump station).	[insert date 24 months after effective date of final rule].	[insert date 30 months after effective date of final rule].
(3) Pipelines with local control only	[insert date 30 months after effective date of final rule].	[insert date 30 months after effective date of final rule].
(4) Control rooms or local control stations placed in service after [insert effective date of the final rule], but before [insert date 12 months after the effective date of final rule].	12 months after placement in service	12 months after placement in service.
(5) Control rooms or local control stations placed in service after [insert date 12 months after the effective date of final rule].	Before placing in service	Upon placing in service.

(b) *Roles and responsibilities.* Each operator must define the roles and responsibilities of a controller during normal, abnormal, and emergency operating conditions. To provide for a controller's prompt and appropriate response to operating conditions, each operator must define:

(1) A controller's authority and responsibility to make decisions and take actions during normal operations.

(2) A controller's role when an abnormal operating condition is detected, even if the controller is not the first to detect the condition, including the controller's responsibility to take specific actions and to communicate with others.

(3) A controller's role during an emergency, even if the controller is not the first to detect the emergency, including the controller's responsibility to take specific actions and to communicate with others.

(4) A controller's responsibility to provide timely notification and coordination with the operator of another pipeline in a common corridor when a leak or failure is suspected, including upon receipt of a notification from the public concerning a suspected leak on an asset owned or operated by the other company but located in the same common corridor or right-of-way.

(5) A method of recording when a controller is responsible for monitoring or controlling any portion of a pipeline facility by implementing an individual console or a system log-in feature or by documenting in the shift records the time and name of each controller who assumed the responsibility during a shift-change or other hand-over of responsibility.

(c) *Provide adequate information.* Each operator must provide each controller with the information necessary for the controller to carry out the roles and responsibilities defined by the operator and must verify that a controller knows the equipment, components and the effects of the controller's actions on the pipeline or pipeline facilities under the controller's control. Each operator must:

(1) Provide a controller with accurate, adequate, and timely data concerning operation of the pipeline facility. Wherever a SCADA system is used, the operator must implement API RP–1165 (incorporated by reference, see § 195.3) in its entirety, unless the operator can adequately demonstrate that a provision of API RP–1165 is not applicable or is impracticable in the SCADA system used.

(2) Validate that any SCADA system display accurately depicts field equipment configuration by completing all of the following:

(i) Conduct and document a point-to-point baseline verification between field equipment and all SCADA system displays to verify 100 percent of the system displays. An operator must complete the baseline verification no later than [insert date three years after effective date of final rule] or by [insert date one year after effective date of final rule] for an operator of a pipeline system containing less than 500 miles of pipeline. An operator may use any documented point-to-point verification completed after [insert date three years before effective date of final rule] to meet some or all of this baseline verification. A point-to-point verification must include equipment locations, ranges, alarm set-point values, alarm activation, required alarm visual or audible response, and proper equipment or software response to SCADA system values.

(ii) Verify that SCADA displays accurately depict field configuration when any modification is made to field equipment or applicable software and conduct a point-to-point verification for associated changes.

(iii) Perform a point-to-point verification as part of implementing a SCADA system change for all portions of the pipeline system or facility affected by the change.

(iv) Develop a plan for systematic re-verification of the accuracy of the SCADA system display.

(3) Establish a means for timely verbal communication among a controller, management, and field personnel.

(4) Identify circumstances that require field personnel to promptly notify the controller. These circumstances must include the identification by field personnel of a leak or situation that could reasonably be expected to develop into an accident if left unaddressed.

(5) Define and record critical information during each shift.

(6) Provide for the exchange of information when a shift changes or when another controller assumes responsibility for operations for any reason.

(7) Establish sufficient overlap of controller shifts to permit the exchange of necessary information.

(8) Periodically test and verify a backup communication system or provide adequate means for manual operation or shutdown of the affected portion of the pipeline safely.

(d) *Fatigue mitigation.* Each operator must implement methods to prevent controller fatigue that could inhibit a controller's ability to carry out the roles and responsibilities defined by the operator. To protect against the onset of fatigue, each operator must:

(1) Establish shift lengths and schedule rotations that provide controllers off-duty time sufficient to achieve eight hours of continuous sleep;

(2) Educate a controller and his supervisor in fatigue mitigation strategies and how off-duty activities contribute to fatigue;

(3) Train a controller and his supervisor to recognize and mitigate the effects of fatigue;

(4) Implement additional measures to monitor for fatigue when a single controller is on duty; and

(5) Establish a maximum limit on controller hours-of-service, which may include an exception during an emergency with appropriate management approval. An operator must specify emergency situations for which a deviation from the hours-of-service maximum limit is permitted.

(e) *Alarm management.* Each operator using a SCADA system must assure appropriate controller response to alarms and notifications. An operator must:

(1) Review SCADA operations at least once each week for:

(i) Events that should have resulted in alarms or event indications that did not do so;

(ii) Proper and timely controller response to alarms or events;

(iii) Identification of unexplained changes in the number of alarms or controller management of alarms;

(iv) Identification of nuisance alarms;

(v) Verification that the number of alarms received is not excessive;

(vi) Identification of instances in which alarms were acknowledged but associated response actions were inadequate or untimely;

(vii) Identification of abnormal or emergency operating conditions and a review of controller response actions;

(viii) Identification of system maintenance issues;

(ix) Identification of systemic problems, server load, or communication problems;

(x) Identification of points that have been taken off scan or that have had forced or manual values for extended periods; and

(xi) Comparison of controller logs or shift notes to SCADA alarm records to identify maintenance requirements or training needs.

(2) Review SCADA configuration and alarm management operations at least once each calendar year but at intervals not to exceed 15 months. At a minimum, reviews must include consideration of the following factors:

(i) Number of alarms;

(ii) Potential systemic issues;

(iii) Unnecessary alarms;

(iv) Individual controller's performance changes over time regarding alarm or event response;

(v) Alarm indications of abnormal operating conditions;

(vi) Recurring combinations of abnormal operating conditions and the inclusion of such combinations in controller training;

(vii) Alarm indications of emergency conditions;

(viii) Individual controller workload;

(ix) Clarity of alarm descriptors to the controllers so controllers fully understand the meaning and nature of each alarm; and

(x) Verification of correct alarm set-point values.

(3) Promptly address all deficiencies identified in the weekly and calendar year SCADA reviews.

(f) *Change management.* Each operator must establish thorough and frequent communications between a controller, management, and field personnel when planning and implementing physical changes to pipeline equipment and configuration. Field personnel must be required to promptly notify a controller when emergency conditions exist or when performing maintenance and making field changes.

(1) Maintenance procedures must include tracking and repair of controller-identified problems with the SCADA system or field instrumentation to provide for prompt response.

(2) SCADA system modifications must be coordinated in advance to allow enough time for adequate controller training and familiarization unless such modifications are made during an emergency response or recovery operation.

(3) An operator shall seek control room participation when pipeline hydraulic or configuration changes are being considered.

(4) Merger, acquisition, and divestiture plans must be developed and used to establish and conduct controller training and qualification prior to the implementation of any changes to the controller's responsibilities.

(5) Changes to alarm set-point values, automated routine software, and relief valve settings must be communicated to the controller prior to implementation.

(6) An operator must thoroughly document and keep records for each of these occurrences.

(g) *Operating experience.*

(1) Each operator must review control room operations following any event that must be reported as an accident pursuant to § 195.50 determine and correct, where necessary, deficiencies related to:

(i) Controller fatigue;

(ii) Field equipment;

(iii) The operation of any relief device;

(iv) Procedures;

(v) SCADA system configuration;

(vi) SCADA system performance;

(vii) Accuracy, timeliness, and portrayal of field information on SCADA displays; and

(viii) Simulator or non-simulator training programs.

(2) Each operator must establish a definition or threshold for close-call events to evaluate event significance. For those events the operator determines to be significant, the operator must conduct the review required by paragraph (g)(1) of this section and the operator must share the information with all controllers.

(3) Each operator must review the accuracy and timeliness of SCADA data and how it is portrayed on displays.

(h) *Training.* Each operator must establish a training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator must train each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements:

(1) Responding to abnormal operating conditions likely to occur simultaneously or in sequence.

(2) Use of a simulator or non-computerized (tabletop) method to train controllers to recognize abnormal operating conditions, in particular leak and failure events. Simulations and tabletop exercises must include representative communications between controllers and individuals that operators would expect to be involved during actual events. Controllers will participate in improvement and development of tabletop or simulation training scenarios.

(3) Providing appropriate information to the public and emergency response personnel during emergency situations, and informing controllers of the information being provided to the public or emergency responders under § 195.440 so that the controllers can understand the context in which this information will be received.

(4) On-site visits by controllers to a representative sampling of field installations similar to those for which each controller is responsible to familiarize themselves with the equipment and with station personnel functions.

(5) Review of procedures for pipeline operating setups that are periodically, but infrequently used.

(6) Hydraulic pipeline training that is sufficient to obtain a thorough knowledge of the pipeline system, especially during the development of abnormal operating conditions.

(7) Site specific training on equipment failure modes.

(8) Specific training on system tools available to determine a leak or significant failure and specific training on other operator contact protocols when there is reason to suspect a leak in a common pipeline corridor or right-of-way.

(i) *Qualification.* An operator must have a program in accordance with subpart G of this part to determine that each controller is qualified. An operator's procedures for the qualification of controllers must include provisions to:

(1) Measure and verify a controller's performance including the controller's ability to detect abnormal and emergency conditions promptly, and to respond appropriately.

(2) Evaluate a controller's physical abilities, including hearing, colorblindness (color perception), and visual acuity, which could affect the controller's ability to perform the assigned duties.

(3) Evaluate a controller's qualifications at least once each calendar year, but at intervals not to exceed 15 months.

(4) Implement methods to address gradual degradation in performance or physical abilities in a controller.

(5) Revoke a controller's qualification for extended time off-duty or absence (of a duration determined by the operator based on the complexity and significance of the controller's role), inadequate performance, impaired physical ability beyond what the operator can accommodate, influence of drugs or alcohol, or any other reason determined by the operator to be necessary to support the safe operation of a pipeline facility.

(6) Restore a revoked qualification by specifying the circumstances for which a complete re-qualification is required, and the circumstances for which other means of restoration may be used, such as a period of review, shadowing, retraining, or all of these.

(7) Document when an oral examination is used as the means of evaluation, including the topics covered.

(8) Prohibit individuals without a current controller qualification from performing the duties of a controller.

(j) *Validation.* An operator must have a senior executive officer validate by signature not later than the date by which control room management procedures must be implemented (see paragraph (a) of this section), and annually thereafter by June 15 of each year, that the operator has:

(1) Conducted a review of controller qualification and training programs and has determined both programs to be adequate;

(2) Permitted only qualified controllers to operate the pipeline;

(3) Implemented the requirements of this section;

(4) Continued to address ergonomic and fatigue factors; and

(5) Involved controllers in finding ways to sustain and improve safety and pipeline integrity through control room management.

(k) *Compliance and deviations.* An operator must maintain for review during inspection:

(1) Records that demonstrate compliance with the requirements of this section; and

(2) Documentation of decisions and analyses to support any deviation from the procedures required by this section. An operator must report any such deviation to PHMSA upon request, or in the case of an intrastate pipeline facility regulated by a state, upon request by the state pipeline safety authority.

21. Amend § 195.505 by adding paragraph (j) to read as follows:

§ 195.505 Qualification program.

* * * * *

(j) Incorporate requirements applicable to controller qualification in accordance with § 195.454.

Issued in Washington, DC, on September 2, 2008.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. E8–20701 Filed 9–11–08; 8:45 am]

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