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

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

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

RIN 3064–AD28

Financial Education Programs That Include the Provision of Bank Products and Services

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is amending its regulations to permit state nonmember banks to participate or assist in certain financial education programs conducted on school premises where, in connection with the program, deposits are received, checks are paid, or money is lent, without the need to submit a branch application to, and receive prior approval from, the FDIC. However, any state nonmember bank that desires to engage in such financial education programs must satisfy certain conditions in order for the exemption to apply.

DATES: The final rule is effective on September 25, 2008.

FOR FURTHER INFORMATION CONTACT: Donald R. Hamm, Section Chief, Risk Management and Applications Section, (202) 898–3528, Division of Supervision and Consumer Protection; or Mark L. Handzlik, Senior Attorney, (202) 898–3990, or Robert C. Fick, Counsel, (202) 898–8962, Supervision Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

1. Background

The FDIC recognizes the importance of financial education programs, particularly for those individuals who have little or no experience using bank-provided services. Such programs generally contribute to the financial stability of individuals, families, and communities. Accordingly, the FDIC supports the ongoing efforts of state nonmember banks to enhance financial literacy, and continues to encourage institutions to collaborate with other members of the community to deliver financial education.

On June 23, 2008, the FDIC published in the **Federal Register** an interim final rule and request for comment titled, *Financial Education Programs that Include the Provision of Bank Products and Services* (the ''Interim Rule'').[1] The FDIC issued the Interim Rule in response to a number of inquiries as to whether the definition of branch includes a school or school facility where a state nonmember bank participates or assists in a financial education program for the benefit of students. Generally, through such programs, students are trained in various banking functions and personal financial management. A bank employee may serve as an advisor to the students and assist faculty in developing a financial education curriculum.

In some instances, students provide limited banking services to other students, faculty, and parents directly at the school, on either a part-time basis or designated school days. A bank engaged in such a program could train students in bank operations and provide general supervision over the program and the provision of banking services. These services could include opening deposit accounts at the bank for students, faculty and parents, and receiving deposits for credit to such accounts. The participating bank may also pick up and deliver to its main office or a branch any funds received by the students in connection with the program.[2]

Section 18(d)(1) of the Federal Deposit Insurance Act (FDI Act) generally provides that no state nonmember bank shall establish or operate a new domestic branch without the prior written consent of the FDIC.[3] Under the FDI Act, the term domestic branch generally is defined to include any branch bank, branch office, branch agency, additional office or any branch place of business located in any State or U.S. territory at which deposits are received or checks paid or money lent (each a core-banking function).[4] The FDIC has determined by regulation that a messenger service that is established and operated by a state nonmember bank, which performs one of the core-banking functions, is a branch and requires a prior approval pursuant to these statutory provisions.[5] However, under certain circumstances, a bank's participation in a financial education program conducted on school premises differs from a bank messenger service in that any core-banking function provided in connection with such program is (i) provided at the discretion of the school; (ii) not provided to the general public; and (iii) conducted and designed primarily for financial education purposes. Moreover, participating in a financial education program differs from establishing a branch because, generally, with respect to such a program, the facility where banking services are provided is established by the school.

The Interim Rule generally exempts from the definition of branch any participation by a state nonmember bank in a financial education program that is operated on school premises or a facility used by a school, where, in connection with the program, deposits are received, checks are paid, or money is lent, subject to certain conditions. The principal purpose of the financial education program must be educational, and not designed for the purpose of profit-making. Further, any banking services provided in connection with the program must be provided at the discretion of the school. Finally, the program must be conducted in a safe

[1] *See* 73 FR 35337.

[2] Note that this paragraph is not intended to provide an exclusive list of permissible activities for banks involved in financial education programs.

[3] *See* 12 U.S.C. 1828(d)(1).

[4] *See* 12 U.S.C. 1813(o).

[5] *See* 12 CFR 303.41. If, however, the messenger service is established or operated by a non-affiliated third party, it generally does not constitute a branch for purposes of Section 18(d) and FDIC regulations. This interpretation is consistent with a plain reading of Section 18(d)(1), and with the decision in *Cades* v. *H & R Block*, where Justice Butzner, writing for the Fourth Circuit, explained that ''courts apply a two-part test to decide whether a bank is operating a branch office. First, the court determines whether [the] branch is established and operated by the bank. * * *'' *See* 43 F.3d 869, 814 (4th Cir. 1994), *citing Independent Bankers Ass'n of New York* v. *Marine Midland Bank*, 757 F.2d 453, 456–63 (2d Cir 1985); *Independent Bankers Ass'n of America* v. *Smith*, 534 F.2d, 921, 951–52 (D.C. Cir. 1976). *See also First National Bank in Plant City* v. *Dickinson*, 396 U.S. 122, 137 n. 10 (1970).

and sound manner and comply with applicable law.

The FDIC received three comments on the Interim Rule from trade- and research-based organizations. Generally, the commenters supported the Interim Rule, and lauded the FDIC for recognizing the importance of financial education programs, particularly for those individuals with little or no experience using bank-provided services. The commenters expressed no concerns regarding the Interim Rule, and they proposed no substantive or technical revisions. However, the FDIC has made a technical, nonsubstantive change to paragraph (a) of 12 CFR 303.41, which involved moving the reference to the financial education program exception provided in 12 CFR 303.46 to the sentence that lists the other exceptions to the definition of branch. Except for this change, the final rule is identical to the Interim Rule.

2. Final Rule

The final rule excludes from the definition of branch any financial education program operated on school premises or a facility used by a school, where, in connection with the program, deposits are received, checks are paid, or money is lent, subject to certain conditions.[6] As provided in this rule, the principal purpose of the program must be financial education, and not for the purpose of profit-making. Further, any banking services provided in connection with the program must be provided at the discretion of the school. The FDIC expects that such services would be limited in nature; available only to students, parents, and faculty; and accessible on a part-time basis or designated school days. The program must be conducted in a safe and sound manner and comply with applicable law.

Regulatory Analysis and Procedure

A. Administrative Procedure Act

Section 553(d) of the Administrative Procedure Act (APA) requires the FDIC to publish a substantive rule at least 30 days before its effective date unless, under subsection (d)(1), the rule establishes or recognizes an exemption or relieves a restriction.[7] This final rule establishes an exemption from the definition of branch provided in 12 CFR part 303, subpart C, which has the effect of permitting state nonmember banks to participate in certain financial education programs conducted on school premises without having to submit a branch application to, and receive prior approval from, the FDIC. Therefore, the FDIC is not required to publish this final rule in the **Federal Register** at least 30 days before its effective date.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) requires an agency that is issuing a proposed rule to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities.[8] Because this rulemaking does not involve the issuance of a notice of proposed rulemaking, the requirements of the RFA for a final regulatory flexibility analysis do not apply.[9]

C. Paperwork Reduction Act

The FDIC has determined that this final rule does not involve a collection of information pursuant to the provisions of the Paperwork Reduction Act of 1995.[10]

List of Subjects in 12 CFR Part 303

Banks, Banking, State nonmember banks, Filing procedures, Establishment and relocation of domestic branches and offices, Financial education programs.

Authority and Issuance

■ For the reasons set forth in the preamble, part 303 of chapter III of title 12 of the Code of Federal Regulations is amended as follows:

PART 303—FILING PROCEDURES

■ 1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1813, 1815, 1817, 1818, 1823, 1819 (Seventh and Tenth), 1820, 1823, 1828, 1831a, 1831e, 1831o, 1831p–1, 1831w, 1835a, 1843(1), 3104, 3105, 3108, 3207, 15 U.S.C. 1601–1607.2.

■ 2. In § 303.41, revise paragraph (a) to read as follows:

§ 303.41 Definitions.

* * * * *

(a) *Branch*, except as provided in this paragraph, includes any branch bank, branch office, additional office, or any branch place of business located in any State of the United States or in any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands at which deposits are received or checks paid or money lent. A branch does not include an automated teller machine, an automated loan machine, a remote service unit, or a facility described in section 303.46. The term branch also includes the following:

* * * * *

■ 3. A new § 303.46 is added to subpart C to read as follows:

§ 303.46 Financial Education Programs that Include the Provision of Bank Products and Services.

No branch application or prior approval is required in order for a state nonmember bank to participate in one or more financial education programs that involve receiving deposits, paying withdrawals, or lending money if:

(a) Such service or services are provided on school premises, or a facility used by the school;

(b) Such service or services are provided at the discretion of the school;

(c) The principal purpose of each program is financial education. For example, the principal purpose of a program would be considered to be financial education if the program is designed to teach students the principles of personal financial management, banking operations, or the benefits of saving for the future, and is not designed for the purpose of profit-making; and

(d) Each program is conducted in a manner that is consistent with safe and sound banking practices and complies with applicable law.

By Order of the Board of Directors.

Dated at Washington, DC, the 18th day of September, 2008.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E8–22326 Filed 9–24–08; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 308, and 309

RIN 3064–AD25

Deposit Insurance Requirements After Certain Conversions; Definition of ''Corporate Reorganization;'' Optional Conversions (''Oakar Transactions''); Additional Grounds for Disapproval of Changes in Control; and Disclosure of Certain Supervisory Information

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

[6] This exemption is consistent with a regulation promulgated by the Office of the Comptroller of the Currency in 2001 which exempts from the definition of branch a national bank's participation in a financial literacy program conducted on school premises. 12 CFR 7.1021.

[7] *See* 5 U.S.C. 553(d).

[8] *See* 5 U.S.C. 603(a).

[9] *See* 5 U.S.C. 604.

[10] 44 U.S.C. 3501 *et seq.*

SUMMARY: The FDIC is issuing a final rule that amends certain of its regulations by conforming them to Federal statutes amended by the Financial Services Regulatory Relief Act of 2006, the Federal Deposit Insurance Reform Act of 2005 and the Federal Deposit Insurance Reform Conforming Amendments Act of 2005. On January 14, 2008, the FDIC adopted, an interim rule and requested public comment on, amendments to its regulations to implement such changes. Having received no comments on the interim rule, the FDIC is confirming the interim rule as final without change.

DATES: Effective September 25, 2008, the interim rule published January 14, 2008 (73 FR 2143) is confirmed as final without change.

FOR FURTHER INFORMATION CONTACT: Brett A. McCallister, Review Examiner (816) 234–8099 x4223, in the Division of Supervision and Consumer Protection; or Ryan K. Clougherty, Attorney, (202) 898–3843, Richard Bogue, Counsel, (202) 898–3726, or Robert C. Fick, Counsel, (202) 898–8962, in the Legal Division.

SUPPLEMENTARY INFORMATION:

I. Background

On October 13, 2006, the President signed into law the Financial Services Regulatory Relief Act of 2006 (''FSRRA'').[1] The stated purpose of FSRRA is to reduce regulatory burden and improve productivity for financial institutions. Several provisions of FSRRA amend statutes that the FDIC has implemented through its Rules and Regulations (''Rules'').[2] Additionally, Congress enacted the Federal Deposit Insurance Reform Act of 2005 (''Reform Act'') [3] and the Federal Deposit Insurance Reform Conforming Amendments Act of 2005 (''Amendments Act''),[4] which consolidated the two former deposit insurance funds into a single deposit insurance fund.

In January of 2008, the FDIC adopted an interim rule, and requested public comment on, amendments to its rules to conform them to Federal statutes as amended by the FSRRA, the Reform Act and the Amendments Act. Having received no comments, the FDIC is now issuing a final rule that is identical to the interim rule.

[1] Pub. L. 109–351, 12 STAT. 1966 (Oct. 13, 2006).

[2] Chapter III of Title 12 of the Code of Federal Regulations.

[3] Pub. L. 109–171, 120 STAT. 9 (Feb. 8, 2006).

[4] Pub. L. 109–173, 119 STAT. 3601 (Feb. 15, 2006).

II. Regulatory Amendments

A. Deposit Insurance Requirements After Certain Conversions

Section 5(i)(5) of the Home Owners' Loan Act (''HOLA'') [5] generally authorizes any Federal savings association that was chartered and in operation before November 12, 1999 and that had branches in one or more states, to convert into one or more national or state banks, each of which may encompass one or more of the existing branches. Section 608(a) of FSRRA amended section 5(i)(5) of the HOLA to require that if such a conversion results in more than one national or state bank, each resulting bank must obtain deposit insurance from the FDIC pursuant to section 5(a) of the Federal Deposit Insurance Act (''FDI Act'').[6]

Subpart B of Part 303 of the FDIC's Rules sets forth the procedures for applying for deposit insurance. Section 303.20 describes the scope of subpart B to include applications for deposit insurance for, among other institutions, proposed depository institutions. The final rule amends section 303.20 to expressly confirm the applicability of subpart B of Part 303 to banks that result from conversions of Federal savings associations under section 5(i)(5) of the HOLA.

B. Definition of Corporate Reorganization

Section 606 of the FSRRA made two changes to the Bank Merger Act [7] with respect to mergers that solely involve an insured depository institution and one or more of its affiliates (''Affiliate Mergers''). First, for Affiliate Mergers, section 606 amended section 18(c)(4) of the FDI Act [8] by eliminating the requirement that the appropriate Federal banking agency request competitive factors reports from either the other Federal banking agencies or the Attorney General of the United States.[9] Prior to FSRRA the responsible Federal banking agency had to request competitive factors reports for Affiliate Mergers. Second, section 606 revised section 18(c)(6) of the FDI Act [10] by eliminating the post-approval waiting period for Affiliate Mergers. Prior to FSRRA the applicant in an Affiliate Merger had to wait up to thirty days after obtaining the agency's approval before it could consummate the transaction.

The FDIC's regulations at 12 CFR 303.61(b), formerly provided a definition of ''corporate reorganization'' that identified a class of mergers that generally do not raise competitive concerns and, therefore, do not require the same level of competitive analysis as other mergers subject to the Bank Merger Act. Such mergers are less burdensome on applicants. 12 CFR 303.61(b) defined ''corporate reorganization'' to include (i) mergers between an insured institution and its subsidiary or its holding company and (ii) mergers between institutions and entities that were ''commonly-owned.'' Institutions were ''commonly-owned'' if more than 50% of the voting stock of each is owned by the same entity. The changes made by section 606 of the FSRRA, however, indicate that there are no competitive concerns for a class of mergers that is broader than the class identified by the FDIC's Rule as corporate reorganizations. Specifically, FSRRA indicates that there are no competitive concerns for mergers that solely involve an insured depository institution and one or more affiliates. While the term ''corporate reorganization'' is only used in subpart D as one of several illustrative examples of the types of mergers covered by the Bank Merger Act, the definition could cause confusion as to how it relates to Affiliate Mergers.

The final rule amends the definition of ''corporate reorganization'' found at 12 CFR 303.61(b) in order to conform it to the changes made by FSRRA and to avoid confusion about the need for competitive analyses and post-approval waiting periods for any merger that solely involves an insured depository institution and one or more of its affiliates.

C. Optional Conversions

Before it was repealed, the former section 5(d)(3) of the FDI Act [11] generally authorized a member of one insurance fund to merge with a member of the other fund without changing the funds that insured the deposits of the two institutions. This type of merger was referred to as an ''Optional Conversion'' in both section 5(d)(3) of the FDI Act and in section 303.63(d) of the FDIC's Rules; it was also commonly known as an ''Oakar Transaction.'' Section 303.63(d) of the FDIC's Rules formerly required the applicant in an Optional Conversion to identify the

[5] 12 U.S.C. 1464(i)(5).

[6] 12 U.S.C. 1815(a).

[7] 12 U.S.C. 1828(c).

[8] 12 U.S.C. 1828(c)(4).

[9] Notwithstanding this change, the responsible Federal banking agency retains the ability to request competitive factors reports if the circumstances warrant.

[10] 12 U.S.C. 1828(c)(6).

[11] 12 U.S.C. 1815(d)(3) (repealed 2006).

merger as an ''Optional Conversion'' in its application.

On March 31, 2006, pursuant to the Reform Act and the Amendments Act, the former Savings Association Insurance Fund (''SAIF'') and the former Bank Insurance Fund (''BIF'') were consolidated into a single fund, the Deposit Insurance Fund. In addition, the Amendments Act repealed section 5(d)(3) of the FDI Act effective with the merger of the two funds.[12] Following the consolidation of the two funds into one by the Reform Act and the repeal of section 5(d)(3) of the FDI Act by the Amendments Act, Optional Conversions are no longer possible. The final rule amends section 303.63 by removing paragraph (d) *Optional conversions*. The removed paragraph formerly read as follows:

(d) *Optional conversions*. If the proposed merger transaction is an optional conversion, the merger application shall include a statement that the proposed merger transaction is a transaction covered by section 5(d)(3) of the FDI Act (12 U.S.C. 1815(d)(3).

D. Additional Grounds for Disapproval of a Change in Control

Section 705 of FSRRA amended section 7(j)(7) of the FDI Act[13] by adding an additional ground for the disapproval of a proposed acquisition of control of a bank. The additional ground for disapproval is if the future prospects of the institution might jeopardize the financial stability of the bank or prejudice the interests of the depositors of the bank.

Section 308.111 of the FDIC's Rules lists the statutory grounds for disapproval of a proposed acquisition of control of an insured state nonmember bank. The final rule amends section 308.111(c) to reflect the addition of unfavorable future prospects of the institution as a ground for disapproval of a proposed acquisition under the FSRRA.

E. Disclosure of Certain Supervisory Information

Section 707 of FSRRA amended section 7(a)(2) of the FDI Act[14] by adding a new subsection (C) that expanded the authority of the Federal banking agencies to furnish examination reports and other confidential supervisory information to (1) any other Federal and State agencies with supervisory or regulatory authority over the depository institution or entity, (2) officers, directors and receivers of such depository institution or entity, and (3) any other person that the Federal banking agency determines to be appropriate.

Part 309 of the FDIC's Rules governs the disclosure of confidential information. Paragraph (b)(3) of section 309.6 entitled ''Disclosure of exempt records,'' previously authorized the disclosure of exempt records to Federal financial institution supervisory agencies and certain other agencies.

Since section 707 of FSRRA authorized additional disclosures of certain supervisory information, the final rule amends section 309.6(b)(3) to add those additional disclosures to the disclosures previously authorized.

III. Regulatory Analysis and Procedure

A. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (''GLBA'')[15] requires the FDIC to use ''plain language'' in all proposed and final rules published after January 1, 2000. The FDIC invited comments on whether the interim rule is clearly stated and effectively organized, and how the FDIC might make the text easier to understand. The FDIC received no comments addressing how the proposed rule might be changed to reflect the requirements of GLBA.

B. Administrative Procedure Act

The final rule takes effect upon publication in the **Federal Register**. The final rule conforms the FDIC's regulations to several statutory provisions that were amended by FSRRA on October 13, 2006 and by the Reform Act and the Amendments Act effective on March 31, 2006. The statutory amendments made by FSRRA, the Reform Act, and the Amendments Act continue in effect. The amendments to the FDIC's regulations made by the final rule are identical to those made by the interim rule, effective January 14, 2008.

The amendments to the FDIC's regulations made by the interim rule, and adopted in this final rule, generally reflect the language contained in the amended statutes without interpretation. The amendments made by the final rule effect no substance changes beyond those already effected by Federal statute. Although solicitation of public comment prior to the effectiveness of these regulatory amendments was unnecessary, the FDIC nonetheless requested public comment on the interim rule. The FDIC received no comments.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') requires that each Federal agency either certify that a proposed rule would not, if adopted in final form, have a significant economic impact on a substantial number of small entities or prepare an initial regulatory flexibility analysis of the proposal and publish the analysis for comment.[16] However, pursuant to section 603(a) of the RFA a regulatory flexibility analysis is only required when an agency is required to publish a notice of proposed rulemaking for a proposed rule. Since the regulatory amendments made by the final rule are effective upon publication in the **Federal Register**, and since no notice of proposed rulemaking is required to be published, no regulatory flexibility analysis is required.

D. Paperwork Reduction Act

No new collections of information pursuant to the Paperwork Reduction Act[17] are contained in the final rule.

List of Subjects

12 CFR Part 303

Administrative practice and procedure, Bank deposit insurance, Banks, Banking, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 308

Administrative practice and procedure, Bank deposit insurance, Banks, Banking, Claims, Crime, Equal access to justice, Fraud, Investigations, Lawyers, Penalties.

12 CFR Part 309

Banks, Banking, Credit, Freedom of information, Privacy.

PARTS 303, 308, 309—[AMENDED]

Authority and Issuance

■ For the reasons set forth in the preamble, under the authority of 12 U.S.C. 1820 G, the interim rule amending parts 303, 308, and 309 of Chapter III of the title 12 of the Code of Federal Regulations which was published at 73 FR 2143 on January 14, 2008, is adopted as a final rule without change.

By Order of the Board of Directors.

Dated at Washington, DC, the 18th day of September 2008.

[12] See section 8(a)(4) of the Amendments Act, Pub. L. 109–173 (2006).

[13] 12 U.S.C. 1817(j)(7).

[14] 12 U.S.C. 1817(a)(2).

[15] 12 U.S.C. 4809.

[16] *See* 5 U.S.C. 603.

[17] 44 U.S.C. 3501.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E8–22327 Filed 9–24–08; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No.: FAA–2007–28501; Amendment No. 33–26]

RIN 2120–AJ05

Airworthiness Standards; Aircraft Engine Standards for Pressurized Engine Static Parts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is amending the aircraft engine type certification standards by adding standards for pressurized engine static parts that are equivalent to those already adopted by the European Aviation Safety Agency. This rule establishes uniform standards for the certification of these parts in the United States and in Europe. U.S. manufacturers already meet the European requirements.

DATES: This amendment becomes effective November 24, 2008.

FOR FURTHER INFORMATION CONTACT: Tim Mouzakis, Engine and Propeller Directorate Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803–5299; telephone (781) 238–7114; fax (781) 238–7199, e-mail: *timoleon.mouzakis@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General Requirements.'' Under that section, the FAA is charged with prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce, including minimum safety standards for aircraft engines. This regulation is within the scope of that authority because it updates the existing regulations for aircraft engine pressurized static parts.

Summary of the NPRM

A Notice of Proposed Rulemaking (NPRM) was published on September 6, 2007 (72 FR 18136) that proposed changes to requirements for pressurized engine static parts in Title 14 Code of Federal Regulations part 33. The comment period for the NPRM closed on December 5, 2007.

Summary of the Final Rule

This final rule on requirements for pressurized engine static parts contains minor changes from the NPRM. We made changes to two sections, §§ 33.71 and 33.91, in response to the comments we received and our own review of the proposed rule. This final rule harmonizes FAA and EASA regulations for part 33 requirements related to pressurized engine static parts.

Summary of Comments

There were five commenters. Rolls-Royce, General Aviation Manufacturers Association (GAMA), and Airbus supported the rule and suggested minor changes, which are discussed below. General Electric and an individual supported the rule and did not suggest changes.

The comments relate to the following general areas:

- Component tests; and
- Examples of static parts.

Discussion of the Final Rule

Component Tests

Pressurized engine static parts operate at significant pressures and § 33.64 prescribes tests for these parts at maximum working and operating pressures. Rolls-Royce and GAMA commented that § 33.91, Engine component tests, should be modified as there was an inconsistency between proposed § 33.64 and existing § 33.91(c), which prescribes testing of pressurized hydraulic fluid tanks. Rolls-Royce and GAMA noted that depending on the maximum possible and maximum working pressures, as described in § 33.64, and the maximum operating pressure as described in § 33.91, the two rules could result in two different testing requirements for a given component.

The FAA agrees that the two rules could be interpreted as separate and distinct test requirements, and that testing pressurized hydraulic fluid tanks falls under the requirements of the new § 33.64. We have also determined that proposed § 33.64 and § 33.71, Lubrication system, could be interpreted as two distinct testing requirements for a single component. Section 33.71(c)(9) prescribes testing for maximum operating temperature and pressure for pressurized oil tanks. These tanks should be tested under the requirements of the new § 33.64.

In the final rule, therefore, we are modifying §§ 33.71(c)(9) and 33.91(c) by replacing existing testing requirements for pressurized tanks with a reference to meeting the requirements of § 33.64. This change is consistent with EASA regulations for pressurized hydraulic fluid and oil tanks.

Examples of Static Parts

In the NPRM discussion, we noted examples of pressurized engine static parts which include compressor, combustion, diffuser, and turbine cases; heat exchangers; bleed valve solenoids; starter motors; and fuel, oil and hydraulic system components. Airbus commented that the examples of pressurized static parts included in the preamble of the NPRM should be expanded to include associated ducts and fittings.

The purpose of this NPRM discussion was to provide examples to help the applicant identify the type of parts affected by this rule. The examples provided in the NPRM do not represent a complete list of pressurized static parts. It is the applicant's responsibility to ensure all applicable pressurized engine parts are identified. We have made no changes to the rule in response to this comment.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there is no current or new requirement for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) 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 $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows.

The NPRM explained that, presently, engine manufacturers must demonstrate compliance with both part 33 and EASA certification standards to market turbine engines in both the United States and Europe. Meeting two sets of certification requirements raises the cost of developing a new turbine engine.

In the NPRM, we explained that EASA has adopted this standard as CS–E 640 Pressure Loads. This final rule adds the provisions of CS–E 640 Pressure Loads to part 33 as a new § 33.64, Pressurized engine static parts, under Subpart E—Design and Construction; Turbine Aircraft Engines.

We estimated that no incremental costs were associated with this rule because our review of U.S. turbine aircraft engine manufacturers revealed that they currently design their engines to meet the standards of CS–E 640 Pressure Loads. Because our rule adopts this standard, manufacturers will incur no additional costs resulting from this final rule.

By creating common part 33 and EASA requirements, turbine engine manufacturers need to design to only one certification standard. We have not attempted to quantify the cost savings from this rulemaking, but note that harmonization in this area will contribute to the overall savings that certification to one standard provides. We have also concluded that further analysis is not required because turbine engine manufacturers are already designing to EASA's CS–E 640 Pressure Loads.

As discussed above, we received comments on the proposed rule and, where appropriate, have made changes in the final rule. However, we received no comments on the economic evaluation of the proposed rule, and the changes made to the final rule, as a result of other comments, did not affect the economic evaluation of the final rule. Therefore, as in the NPRM, the FAA concludes that this rule is expected to have minimal cost with positive net benefits and a complete regulatory evaluation was not prepared.

We have determined that this final rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The NPRM was expected to be minimal cost and we concluded ''* * * that this rule would not have a significant economic impact on a substantial number of small entities.'' We certified that a full regulatory flexibility analysis was not required and we requested comments on this determination.

We received no comments on the regulatory flexibility analysis and have made no changes to our initial determination because comments received on the proposal did not affect our regulatory flexibility analysis determination. The final rule, like the NPRM, is minimal cost with positive net benefits.

Therefore, as the Acting FAA Administrator, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this final rule and has determined that it is in accord with the Trade Agreements Act as the final rule uses European standards as the basis for United States regulation.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in

1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $136.1 million in lieu of $100 million.

This final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Availability of Rulemaking Documents

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);

2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/*; or

3. Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html.*

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://DocketsInfo.dot.gov.*

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. You can find out more about SBREFA on the Internet at *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/*.

List of Subjects in 14 CFR Part 33

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14, Code of Federal Regulations as follows:

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

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

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

■ 2. Add § 33.64 to Subpart E to read as follows:

§ 33.64 Pressurized engine static parts.

(a) Strength. The applicant must establish by test, validated analysis, or a combination of both, that all static parts subject to significant gas or liquid pressure loads for a stabilized period of one minute will not:

(1) Exhibit permanent distortion beyond serviceable limits or exhibit leakage that could create a hazardous condition when subjected to the greater of the following pressures:

(i) 1.1 times the maximum working pressure;

(ii) 1.33 times the normal working pressure; or

(iii) 35 kPa (5 p.s.i.) above the normal working pressure.

(2) Exhibit fracture or burst when subjected to the greater of the following pressures:

(i) 1.15 times the maximum possible pressure;

(ii) 1.5 times the maximum working pressure; or

(iii) 35 kPa (5 p.s.i.) above the maximum possible pressure.

(b) Compliance with this section must take into account:

(1) The operating temperature of the part;

(2) Any other significant static loads in addition to pressure loads;

(3) Minimum properties representative of both the material and the processes used in the construction of the part; and

(4) Any adverse geometry conditions allowed by the type design.

■ 3. Amend § 33.71 by revising paragraph (c)(9) to read as follows:

§ 33.71 Lubrication system.

* * * * *

(c) * * *

(9) Each unpressurized oil tank may not leak when subjected to a maximum operating temperature and an internal pressure of 5 p.s.i., and each pressurized oil tank must meet the requirements of § 33.64.

* * * * *

■ 4. Amend § 33.91 by revising paragraph (c) to read as follows:

§ 33.91 Engine component tests.

* * * * *

(c) Each unpressurized hydraulic fluid tank may not fail or leak when subjected to a maximum operating temperature and an internal pressure of 5 p.s.i., and each pressurized hydraulic fluid tank must meet the requirements of § 33.64.

* * * * *

Issued in Washington, DC, on September 15, 2008.

Robert A. Sturgell,

Acting Administrator.

[FR Doc. E8–22569 Filed 9–24–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0211; Airspace Docket No. 08–AWP–3]

Establishment of Class D Airspace; San Bernardino International Airport, San Bernardino, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes Class D airspace at San Bernardino International Airport, San Bernardino, CA. The FAA is taking this action to provide controlled airspace for the safety of aircraft executing Standard Instrument Approach Procedures (SIAPs) and other Instrument Flight Rules (IFR) operations at San Bernardino International Airport. The configuration of this airspace has been modified to accommodate airspace design changes that would enhance the safety and efficiency of air traffic operations at San Bernardino International Airport and continue general aviation access to Redlands Municipal Airport 4.5 nautical miles to the east.

DATES: *Effective Date:* 0901 UTC, November 20, 2008. The director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Operations Support Specialists, Federal Aviation Administration, Western Service Area, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 203–4532.

SUPPLEMENTARY INFORMATION:

History

On March 14, 2008, the FAA published a notice of proposed rulemaking in the **Federal Register** to establish Class D airspace at San Bernardino Airport, San Bernardino, CA, (73 FR 13811). On April 17, 2008, the FAA published an extension to the comment period in the **Federal Register** (73 FR 20843). This rule is the result of the airport proprietor's intent to contract a non-federal Airport Traffic Control Tower (ATCT) at San Bernardino International Airport, which will meet criteria for Class D airspace, and is necessary for the safety of aircraft executing these SIAPs and IFR operations.

There were 14 comments submitted regarding the proposed configuration of this Class D airspace. All of the comments referenced the cutout for the nearby Redlands Municipal Airport 4.5 nautical miles to the east. Several commenters recommended aligning the Redlands Municipal Airport cutout with visual landmarks. One commenter recommended the ceiling of the proposed San Bernardino Class D airspace be raised to accommodate terminal operations within the proposed Class D airspace.

The FAA has considered the recommendations to the NPRM and found they have merit and would enhance the safety and efficiency of the proposed airspace. The San Bernardino Class D airspace is being modified in this final rule to exclude the airspace north of Highland Avenue and east of Church Street, which would provide greater access to Redlands Municipal Airport. The ceiling of the San Bernardino Class D airspace area is also being raised to 3,200 feet mean sea level (MSL).

The Rule

This amendment to 14 CFR Part 71 establishes Class D airspace at San Bernardino International Airport, San Bernardino, CA. An ATCT is being established at San Bernardino International Airport, San Bernardino, CA, which will meet criteria for Class D airspace.

Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9R, dated August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, section 40103. The FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would provide for the safety of aircraft operations at San Bernardino International Airport.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, dated August 15, 2007, and effective September 15, 2007, is amended as follows:

Paragraph 5000 Class D Airspace area.

* * * * *

AWP CA D San Bernardino, CA [New]

San Bernardino International Airport, San Bernardino, CA
(Lat. 34°05′43″ N., long. 117°14′06″ W.)

That airspace extending upward from the surface to and including 3,200 feet MSL beginning at lat. 34°08′09″ N., long. 117°18′40″ W.; to lat. 34°08′09″ N., long. 117°11′13″ W.; to lat. 34°07′42″ N., long. 117°10′26″ W.; to lat. 34°02′24″ N., long. 117°10′26″ W.; thence via the 4.5 nautical mile radius of the San Bernardino Airport clockwise to the point of beginning. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on September 16, 2008.

Kevin Nolan,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. E8–22438 Filed 9–24–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Parts 122 and 129

[Public Notice 6370]

RIN 1400–AC50

Amendment to the International Traffic in Arms Regulations: Registration Fee Change

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending the text of the International Traffic in Arms Regulations (ITAR) to increase the registration fees, change the registration renewal period, and make other minor administrative changes.

DATES: *Effective Date:* This rule is effective September 25, 2008.

FOR FURTHER INFORMATION CONTACT: Patricia Slygh, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663–2830 or FAX (202) 261–8199; e-mail *DDTCResponseTeam@state.gov, ATTN:* Regulatory Change, ITAR Parts 122 and 129.

SUPPLEMENTARY INFORMATION: On July 28, 2008, the Department published a Notice of Proposed Rulemaking (NPRM) to increase the registration fees, change the registration renewal period, and make other minor administrative changes to Parts 122 and 129 of the ITAR. Further background is provided within the NPRM at 73 FR 43653.

This rule increases the fee charged to those persons required to register with the Directorate of Defense Trade Controls (DDTC) in accordance with Section 38 of the Arms Export Control Act (AECA) (22 U.S.C. 2778). ITAR registration fees are set forth at 22 CFR 122.3 and were last adjusted in 2004.

To align registration fees with the cost of licensing, compliance and other related activities, the Department is adopting a three-tier registration fee schedule. The first tier will be a set fee of $2,250 per year for registrants who are renewing a registration, required to register by law, and for whom DDTC has not reviewed, adjudicated or issued a response to any applications during the twelve-month period ending 90 days prior to the expiration of their current registration. This tier includes those registering with the Department for the first time.

The second tier is for registrants for whom DDTC has reviewed, adjudicated or issued a response to between one and ten applications during the twelve-month period ending 90 days prior to the expiration of their current registration. For this tier, registrants will pay a set fee of $2,750 per year.

The third tier is for registrants for whom DDTC has reviewed, adjudicated or issued a response to more than ten applications during the twelve month period ending 90 days prior to the expiration of their current registration. For this tier, registrants will pay a fee of $2,750 plus an additional fee that is based on the number of applications for which DDTC has reviewed, adjudicated or issued a response during the twelve months ending 90 days prior to the expiration of their current registration. The additional fee will be determined by multiplying $250 times the number of applications for which DDTC has reviewed, adjudicated or issued a response during the twelve-month period ending 90 days prior to the expiration of the current registration.

Fees for registrants whose total registration fee is greater than 3% of the total value of applications for which DDTC has reviewed, adjudicated or issued a response during the 12-month period ending 90 days prior to expiration of the current registration will be reduced to 3% of such total application value or $2,750, whichever is greater. Fees for registrants, including universities, who are exempt from income taxation pursuant to 26 U.S.C. 501(c)(3) may be reduced to the first-tier registration fee provided proof of such status (i.e., IRS certification) is submitted with their registration package.

In addition, 22 CFR 129.4(a) and 22 CFR 129.4(b) are revised to reflect the new registration fee schedule.

Comment Analysis

The Department received comments from twenty-seven (27) individuals and companies. Seventeen (17) commenting parties voiced their opposition either to DDTC raising registration fees or to the collection of registration fees at all. Registration fees are collected and utilized in accordance with the AECA. The President has directed the Department of State to implement a series of improvements to its export licensing system to make it more timely, predictable, and transparent. To support that effort, the President has required that the U.S. Department of State initiate a self-financing mechanism so that the DDTC's mission will eventually be at least 75% self-financed. Six (6) commenting parties offered actions that could be taken by DDTC to reduce its licensing workload. These comments were not considered at this time as they are outside the scope of this rule. However, the Department remains committed to continuing to reform the export control process. As DDTC continues to reform the export control process, the budgetary requirements will be reviewed on a regular basis, which may result in a revision to the registration fee schedule.

Ten (10) commenting parties suggested alternate funding schedules for registration fees. Nine of these alternates were not adopted as they would not have generated the funds required by DDTC or appeared to be unfair to small businesses that, while required to register with DDTC, utilize only limited Department resources. The tenth proposal recommended several flat tiers based on licensing activity. While this proposal would provide the necessary funds for DDTC, imposing a minimal administrative burden upon the Department, it was not adopted primarily since the incremental cost of submitting one more license under this proposal could be significant as the total cost is recomputed in light of the higher fee at the next tier.

Six (6) commenting parties raised concerns that the proposed fee schedule would be an administrative burden on the Department as well as on industry. Four (4) comments regarding reinstitution of multi-year registrations were received. DDTC has attempted to adopt a fee schedule that will result in minimal burden to applicants, recognizing that any change to the current one fee for all registrants will impose some additional burden. The multi-year registrations have been discontinued in order to provide DDTC with a revenue stream that reflects its costs. The Department will contemplate reconsidering multi-year registrations after the Department has experience with a single-year fee structure.

Two (2) commenting parties recommended reconsideration of 22 CFR 122.2(a) and 22 CFR 129.4(a) regarding Department policy for returning incomplete registration packages. Discretion will continue to be used when determining if it is necessary to return an incomplete registration package; only those registration packages materially incomplete will be returned.

Four (4) commenting parties recommended that license amendments not be counted when determining the registration fee. Since license amendments have a material impact on the authorized activity and require DDTC to review, adjudicate and respond to the applicant, they will be counted. Activities under 22 CFR parts 123 through 126 not requiring the Department to respond to the applicant will not be counted as part of the registration fee; examples include

annual submission of sales reports, prior notifications, provision of documents required by proviso, and submission of purchase orders to support offshore procurement. Other activities outside of 22 CFR parts 123 through 126 that require DDTC to respond to the applicant will not be counted in determining registration fees; examples of these actions include commodity jurisdictions and disclosures. Eight (8) commenting parties recommended that those license applications ''returned without action'' not be counted when determining the level of licensing activity. DDTC has adopted this recommendation and 22 CFR 122.3(a)(7) has been revised accordingly. Additionally, the Department will not consider denied licenses when determining registration fees.

Regulatory Analysis and Notices

Administrative Procedure Act: This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures contained in 5 U.S.C. 553 and 554. However, as noted in the **SUPPLEMENTARY INFORMATION**, notice of the rule was provided and comments were solicited and received on this amendment.

Regulatory Flexibility Act: Because this rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth in sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604).

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

Small Business Regulatory Enforcement Fairness Act of 1996: This amendment is not a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

Executive Orders 12372 and 13132: This amendment will not have substantial effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. Executive Order 12372, regarding intergovernmental consultation on Federal programs and activities, does not apply to this amendment.

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

Executive Order 12988: The Department of State has reviewed the proposed regulations in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

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

List of Subjects

22 CFR Part 122

Arms and munitions, Exports, Reporting and recordkeeping requirements.

22 CFR Part 129

Arms and munitions, Exports, Technical assistance.

■ Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, parts 122 and 129 are amended as follows:

PART 122—REGISTRATION OF MANUFACTURERS AND EXPORTERS

■ 1. The authority citation for part 122 continues to read as follows:

Authority: Secs. 2 and 38, Public Law 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778); E.O. 11958, 42 FR 4311, 1977 Comp. p. 79, 22 U.S.C. 2651a.

■ 2. Section 122.2 is amended by revising paragraph (a) to read as follows:

§ 122.2 Submission of registration statement.

(a) *General.* The Department of State Form DS–2032 (Statement of Registration) and the transmittal letter required by paragraph (b) of this section must be submitted by an intended registrant with a payment by check drawn against the registrant's account, payable to the Department of State of the fee prescribed in § 122.3(a) of this subchapter. Checks must be in U.S. currency, and must be payable through a U.S. financial institution. In addition, the Statement of Registration and transmittal letter must be signed by a senior officer (e.g., Chief Executive Officer, President, Secretary, Partner, Member, Treasurer, General Counsel) who has been empowered by the intended registrant to sign such documents. The intended registrant also shall submit documentation that demonstrates that it is incorporated or otherwise authorized to do business in the United States. The Directorate of Defense Trade Controls will notify the registrant if the Statement of Registration is incomplete either by notifying the registrant of what information is required or through the return of the entire registration package. Registrants may not establish new entities for the purpose of reducing registration fees.

* * * * *

■ 3. Section 122.3 is amended by revising paragraph (a) to read as follows:

§ 122.3 Registration fees.

(a) A person who is required to register must do so on an annual basis upon submission of a completed Form DS–2032, transmittal letter, and payment of a fee as follows:

(1) Tier 1: A set fee of $2,250 per year is required for new registrants or registrants for whom the Directorate of Defense Trade Controls has not reviewed, adjudicated or issued a response to any applications during a 12-month period ending 90 days prior to expiration of the current registration.

(2) Tier 2: A set fee of $2,750 per year is required for registrants for whom the Directorate of Defense Trade Controls has reviewed, adjudicated or issued a response to between one and ten applications during a 12-month period ending 90 days prior to expiration of the current registration.

(3) Tier 3: The third tier is for registrants for whom the Directorate of Defense Trade Controls has reviewed, adjudicated or issued a response to more than ten applications during a 12-month period ending 90 days prior to expiration of the current registration. For this tier, registrants will pay a fee of $2,750 plus an additional fee based on the number of applications for which the Directorate of Defense Trade Controls has reviewed, adjudicated or issued a response. The additional fee will be determined by multiplying $250 times the number of applications over ten for whom the Directorate of Defense Trade Controls has reviewed, adjudicated or issued a response during a 12-month period ending 90 days prior to expiration of the current registration.

(4) For registrants, including universities, exempt from income

taxation pursuant to 26 U.S.C. 501(c)(3), their fee may be reduced to the Tier 1 registration fee provided a copy of their certification letter from the Internal Revenue Service is submitted with their registration package. To be eligible, the registrant and all of its subsidiaries/affiliates must be exempt from income taxation pursuant to 26 U.S.C. 501(c)(3).

(5) The fee for registrants whose total registration fee is greater than 3% of the total value of applications for whom the Directorate of Defense Trade Controls has reviewed, adjudicated or issued a response during the 12-month period ending 90 days prior to expiration of the current registration will be reduced to 3% of such total application value or $2,750, which ever is greater.

(6) For those renewing a registration, notice of the fee due for the next year's registration will be sent to the registrant of record at least 60 days prior to its expiration date.

(7) For purposes of this subsection, *''applications''* refers to the actions enumerated within parts 123 through 126 of this subchapter that require the Directorate of Defense Trade Controls to review, adjudicate and issue responses. Only those applications that the Department has taken final action on and provided response to will be counted in determining the annual registration fee. Those applications that are ''returned without action'' or ''denied'' will not be counted.

* * * * *

PART 129—REGISTRATION AND LICENSING OF BROKERS

■ 4. The authority citation for part 129 continues to read as follows:

Authority: Sec. 38, Pub. L. 104–164, 110 Stat. 1437 (22 U.S.C. 2778).

■ 5. Section 129.4 is amended by revising paragraph (a) to read as follows:

§ 129.4 Registration statement and fees.

(a) *General.* The Department of State Form DS–2032 (Statement of Registration) and the transmittal letter meeting the requirements of § 122.2(b) of this subchapter must be submitted by an intended registrant with a payment by check, payable to the Department of State, of the fees prescribed in Section 122.3(a) of this subchapter. Foreign brokers must submit a check in U.S. dollars payable through a U.S. financial institution that includes the registrant's legal name and address on the check. The Statement of Registration and transmittal letter must be signed by a senior officer (e.g., Chief Executive Officer, President, Secretary, Partner, Member, Treasurer, General Counsel) who has been empowered by the intended registrant to sign such documents. The intended registrant shall also submit documentation that demonstrates that it is incorporated or otherwise authorized to do business in the United States. The requirement to submit a Department of State Form DS–2032 and to submit documentation demonstrating incorporation or authorization to do business in the United States does not exclude foreign persons from the requirement to register. Foreign persons who are required to register shall provide information that is substantially similar in content as that which a U.S. person would provide under this provision (e.g., foreign business license or similar authorization to do business). The Directorate of Defense Trade Controls will notify the registrant if the Statement of Registration is incomplete either by notifying the registrant of what information is required or through the return of the entire registration package with payment. Registrants may not establish new entities for the purpose of reducing registration fees.

* * * * *

Dated: *September 19, 2008.*

John C. Rood,

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

[FR Doc. E8–22574 Filed 9–24–08; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

22 CFR Part 126

[Public Notice: 6368]

Amendment to the International Arms Traffic in Arms Regulations: Rwanda

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is removing Rwanda from its regulations on prohibited exports and sales to certain countries as a result of United Nations Security Council (UNSC) Resolution 1823, which terminated remaining arms sanctions against Rwanda.

DATES: This rule is effective September 25, 2008.

FOR FURTHER INFORMATION CONTACT: Nicholas Memos, Office of Defense Trade Controls Policy, Department of State, Telephone (202) 663–2804 or Fax (202) 261–8199; e-mail *DDTCResponseTeam@state.gov.*

SUPPLEMENTARY INFORMATION: On July 10, 2008, the UNSC adopted Resolution 1823, which terminated remaining prohibitions of defense exports to non-governmental entities and persons in Rwanda, and to such entities and persons in states neighboring Rwanda if such sale was intended for use within Rwanda, and which also terminated the prohibition of the resale or retransfer of defense items from the Government of Rwanda to any state neighboring Rwanda, or persons not in the service of the Government of Rwanda.

Regulatory Analysis and Notices

Administrative Procedure Act

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

Regulatory Flexibility Act

Since this amendment is not subject to the procedures in 5 U.S.C 553, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

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

Executive Orders 12372 and 13132

This amendment will not have substantial 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. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this amendment.

Executive Order 12866

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

Paperwork Reduction Act

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

List of Subjects in 22 CFR Part 126

Arms and munitions, Exports.

■ Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, Part 126 is amended as follows:

PART 126—GENERAL POLICIES AND PROVISIONS

■ 1. The authority citation for Part 126 continues to read as follows:

Authority: Secs. 2, 38, 40, 42 and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791 and 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205; 3 CFR, 1994 Comp., p. 899; Sec. 1225, Pub. L. 108–375.

§ 126.1 [Amended]

■ 2. In § 126.1:

■ A. Remove paragraph (c)(8).

■ B. Redesignate paragraphs (c)(9), (c)(10), and (c)(11) as paragraphs (c)(8), (c)(9), and (c)(10), respectively.

■ C. Remove and reserve paragraph (h).

Dated: September 11, 2008.

John C. Rood,

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

[FR Doc. E8–22578 Filed 9–24–08; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Assistant Administrator of the Mitigation Directorate has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground modified	Communities affected
Furnas County, Nebraska, and Incorporated Areas FEMA Docket No.: B–7747			
Medicine Creek	Approximately 0.17 mile downstream of U.S. Highway 6 ..	+2257	City of Cambridge, Unincorporated Areas of Furnas County.
	Approximately 300 feet upstream of Road 409	+2270	
Republican River	Approximately 3.18 miles downstream of State Highway 47.	+2243	City of Cambridge, Unincorporated Areas of Furnas County.
	Approximately 480 feet upstream of State Highway 47	+2263	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Cambridge
Maps are available for inspection at 722 Patterson Avenue, Cambridge, NE 69022.

Unincorporated Areas of Furnas County
Maps are available for inspection at 912 R Street, Beaver City, NE 68926.

Wilkes County, North Carolina and Incorporated Areas Docket No.: FEMA–B–7763			
Beaver Creek	At the confluence with Yadkin River	+1,079	Unincorporated Areas of Wilkes County.
	Approximately 750 feet upstream of Caldwell/Wilkes County boundary.	+1,228	
Beaver Creek Tributary 1	At the confluence with Beaver Creek	+1,084	Unincorporated Areas of Wilkes County.
	Approximately 0.7 mile upstream of the confluence with Beaver Creek.	+1,100	
Beaver Creek Tributary 2	At the confluence with Beaver Creek	+1,153	Unincorporated Areas of Wilkes County.
	Approximately 590 feet upstream of Livingston Road (State Road 1130).	+1,169	
Beaver Creek Tributary 3	At the confluence with Beaver Creek	+1,159	Unincorporated Areas of Wilkes County.
	Approximately 0.7 mile upstream of the confluence with Beaver Creek.	+1,190	
Big Branch	At the confluence with Middle Prong Roaring River	+1,300	Unincorporated Areas of Wilkes County.
	Approximately 1,080 feet upstream of Moxley Road (State Road 1735).	+1,350	
Big Bugaboo Creek	At the confluence with Yadkin River	+926	Unincorporated Areas of Wilkes County.
	Approximately 0.9 mile upstream of the confluence of Big Bugaboo Creek Tributary 1.	+1,213	
Big Bugaboo Creek Tributary 1	At the confluence with Big Bugaboo Creek	+1,183	Unincorporated Areas of Wilkes County.
	Approximately 2,000 feet upstream of the confluence with Big Bugaboo Creek.	+1,207	
Big Sandy Creek	At the confluence with East Prong Roaring River	+1,226	Unincorporated Areas of Wilkes County.
	Approximately 1,270 feet upstream of Traphill-Brown Road (State Road 1741).	+1,323	
Big Warrior Creek	At the confluence with Warrior Creek	+1,085	Unincorporated Areas of Wilkes County.
	Approximately 1.8 miles upstream of the confluence of Big Warrior Creek Tributary 1.	+1,275	
Big Warrior Creek Tributary 1 ..	At the confluence with Big Warrior Creek	+1,128	Unincorporated Areas of Wilkes County.
	Approximately 0.8 mile upstream of the confluence with Big Warrior Creek.	+1,237	
Blood Creek	At the confluence with Warrior Creek	+1,075	Unincorporated Areas of Wilkes County.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground modified	Communities affected
	Approximately 1,990 feet upstream of Walsh Town Road (State Road 1119).	+1,081	
Brier Creek	At the confluence with Yadkin River	+933	Unincorporated Areas of Wilkes County.
	Approximately 1,370 feet upstream of Ranse Staley Road (State Road 2325).	+1,039	
Brier Creek Tributary 1	At the confluence with Brier Creek	+933	Unincorporated Areas of Wilkes County.
	Approximately 1.1 miles upstream of Red White & Blue Road (State Road 2324).	+981	
Brushy Creek	Approximately 300 feet downstream of the Iredell/Wilkes County boundary.	+906	Unincorporated Areas of Wilkes County.
	Approximately 100 feet upstream of the Iredell/Wilkes County boundary.	+908	
Cane Creek	At the confluence with West Prong Roaring River	+1,173	Unincorporated Areas of Wilkes County.
	Approximately 1.7 miles upstream of Dehart Church Road (State Road 1715).	+1,325	
Cub Creek	At the confluence with Yadkin River	+963	Unincorporated Areas of Wilkes County, Town of Wilkesboro.
	Approximately 0.6 mile upstream of Pennell Road (State Road 2493).	+1,084	
Darnell Creek	At the confluence with North Fork Reddies River	+1,290	Unincorporated Areas of Wilkes County.
	Approximately 1.2 miles upstream of State Road 1567	+1,413	
Double Creek	At the confluence with Middle Prong Roaring River	+1,293	Unincorporated Areas of Wilkes County.
	Approximately 100 feet upstream of confluence of Double Creek Tributary 1.	+1,371	
Double Creek Tributary 1	The confluence with Double Creek	+1,370	Unincorporated Areas of Wilkes County.
	Approximately 0.5 mile upstream of confluence with Double Creek.	+1,396	
Dugger Creek	At the confluence with Elk Creek	+1,278	Unincorporated Areas of Wilkes County.
	Approximately 1,170 feet upstream of Elk Creek Darby Road (State Road 1162).	+1,323	
East Prong Roaring River	At the confluence with Roaring River	+1,009	Unincorporated Areas of Wilkes County.
	Approximately 2.8 miles upstream of Longbottom Road (State Road 1737).	+1,389	
East Swan Creek	At the confluence with Swan Creek	+911	Unincorporated Areas of Wilkes County.
	Approximately 0.9 mile upstream of the confluence with Swan Creek.	+927	
Elk Creek	At the confluence with Yadkin River	+1,090	Unincorporated Areas of Wilkes County.
	At the Watauga/Wilkes County boundary	+1,349	
Elk Creek Tributary 1	At the confluence with Elk Creek	+1,235	Unincorporated Areas of Wilkes County.
	Approximately 0.8 mile upstream of Elk Creek Darby Road (State Road 1162).	+1,626	
Elk Creek Tributary 2	At the confluence with Elk Creek	+1,237	Unincorporated Areas of Wilkes County.
	Approximately 1,030 feet upstream of Meadow Road	+1,358	
Elkin Creek	Approximately 1,700 feet downstream of the Wilkes/Surry County boundary.	+938	Unincorporated Areas of Wilkes County.
	Approximately 700 feet upstream of Union Community Road (State Road 1918).	+1,293	
Elkin Creek Tributary 1	At the confluence with Elkin Creek	+1,185	Unincorporated Areas of Wilkes County.
	Approximately 0.7 mile upstream of State Road 1910	+1,213	
Fishing Creek	At the confluence with Yadkin River	+942	Unincorporated Areas of Wilkes County.
	Approximately 100 feet downstream of Speedway Road (State Road 2355).	+1,063	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground modified	Communities affected
Fishing Creek Tributary 1	At the confluence with Fishing Creek	+945	Unincorporated Areas of Wilkes County.
	Approximately 1.9 miles upstream of Old NC 60 Highway (State Road 2318).	+997	
Fishing Creek Tributary 2	At the confluence with Fishing Creek	+1,023	Unincorporated Areas of Wilkes County.
	Approximately 250 feet downstream of U.S. Highway 421	+1,129	
Fishing Creek Tributary 2A	At the confluence with Fishing Creek Tributary 2	+1,119	Unincorporated Areas of Wilkes County.
	Approximately 0.5 mile upstream of the confluence with Fishing Creek Tributary 2.	+1,153	
Fletcher Creek	At the confluence with South Prong Lewis Fork	+1,399	Unincorporated Areas of Wilkes County.
	Approximately 0.4 mile upstream of Shady Walk Lane	+1,517	
Gambill Creek	At the confluence with West Prong Roaring River	+1,343	Unincorporated Areas of Wilkes County.
	Approximately 0.6 mile upstream of the confluence with West Prong Roaring River.	+1,401	
Gladys Fork	At the confluence with Stony Fork	+1,092	Unincorporated Areas of Wilkes County.
	Approximately 0.5 mile upstream of Mount Pleasant Road (State Road 1135).	+1,141	
Grassy Creek West	At the confluence with Elkin Creek	+980	Unincorporated Areas of Wilkes County.
	At Wilkes/Surry County boundary	+987	
Grassy Fork	At the confluence with Elkin Creek	+1,112	Unincorporated Areas of Wilkes County.
	Approximately 1,990 feet upstream of the confluence with Elkin Creek.	+1,119	
Grays Creek	At the confluence with the Yadkin River	+921	Unincorporated Areas of Wilkes County.
	Approximately 0.9 mile upstream of State Road 2321	+929	
Harris Creek	At the confluence with Double Creek	+1,318	Unincorporated Areas of Wilkes County.
	Approximately 0.6 mile upstream of Longbottom Road (State Road 1730).	+1,425	
Hoopers Branch	At the confluence with Reddies River	+997	Unincorporated Areas of Wilkes County, Town of North Wilkesboro.
	Approximately 1,580 feet upstream of Hackett Street	+1,088	
Huffman Branch	At the confluence with North Prong Lewis Fork	+1,278	Unincorporated Areas of Wilkes County.
	Approximately 0.6 mile upstream of Parsonville Road (State Road 1300).	+1,324	
.			
Hunting Creek	Approximately 100 feet downstream of the Wilkes/Iredell County boundary.	+895	Unincorporated Areas of Wilkes County.
	Approximately 1.4 miles upstream of Balls Mill Road (State Road 2474).	+1,176	
Joshua Creek	At the confluence with Mulberry Creek	+1,453	Unincorporated Areas of Wilkes County.
	Approximately 890 feet upstream of Longbottom Road (State Road 1728).	+1,528	
Left Prong Stony Fork	At the confluence with Stony Fork	+1,332	Unincorporated Areas of Wilkes County.
	At the Watauga/Wilkes County boundary	+1,639	
Lewis Fork	At the confluence with Yadkin River	+1,075	Unincorporated Areas of Wilkes County.
	At the confluence of North Prong Lewis Fork and South Prong Lewis Fork.	+1,077	
Little Bugaboo Creek	At the confluence with Big Bugaboo Creek	+1,035	Unincorporated Areas of Wilkes County.
	Approximately 620 feet upstream of Hoots Road (State Road 2014).	+1,074	
Little Elkin Creek	The confluence with Yadkin River	+905	Unincorporated Areas of Wilkes County.
	Approximately 0.6 mile upstream of Greenhorn Road (State Road 1931).	+1,177	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground modified	Communities affected
Little Fork Creek	At the confluence with North Prong Lewis Fork	+1,304	Unincorporated Areas of Wilkes County.
	Approximately 1.4 miles upstream of Benny Parsons Road (State Road 1359).	+1,664	
Little Hunting Creek	At the confluence with Hunting Creek	+915	Unincorporated Areas of Wilkes County.
	Approximately 2.0 miles upstream of Mountain View Church Road (State Road 2503).	+1,281	
Little Sandy Creek	At the confluence with East Prong Roaring River	+1,084	Unincorporated Areas of Wilkes County.
	Approximately 0.5 mile upstream of Longbottom Road (State Road 1737).	+1,280	
Little Warrior Creek	At the confluence with Warrior Creek	+1,075	Unincorporated Areas of Wilkes County.
	Approximately 0.6 mile upstream of Thankful Church Road (State Road 1125).	+1,170	
Long Branch North	At the Wilkes/Yadkin County boundary	+1,075	Unincorporated Areas of Wilkes County.
	Approximately 50 feet upstream of the Wilkes/Yadkin County boundary.	+1,075	
Middle Fork Reddies River	At the confluence with Reddies River	+1,202	Unincorporated Areas of Wilkes County.
	Approximately 0.7 mile upstream of State Road 1580	+1,326	
Middle Prong Roaring River	At the confluence with Roaring River	+1,009	Unincorporated Areas of Wilkes County.
	Approximately 2.1 miles upstream of Moxley Road (State Road 1735).	+1,442	
Mill Creek	At the confluence with Cub Creek	+964	Unincorporated Areas of Wilkes County, Town of Wilkesboro.
	Approximately 1,000 feet downstream of Country Club Road (State Road 2462).	+1,052	
Mill Creek North	At the confluence with North Fork Reddies River	+1,258	Unincorporated Areas of Wilkes County.
	Approximately 0.6 mile upstream of Mertie Road (State Road 1570).	+2,115	
Moravian Creek	At the confluence with Yadkin River	+968	Unincorporated Areas of Wilkes County, Town of Wilkesboro.
	At the confluence of Moravian Creek Tributary 1	+1,233	
Moravian Creek Tributary 1	At the confluence with Moravian Creek	+1,233	Unincorporated Areas of Wilkes County.
	Approximately 0.5 mile upstream of Lowe Creek Road (State Road 2488).	+1,311	
Mulberry Creek	At the confluence with Yadkin River	+952	Unincorporated Areas of Wilkes County, Town of North Wilkesboro.
	At the confluence of Joshua Creek	+1,453	
Mulberry Creek Tributary 1	At the confluence with Mulberry Creek	+1,294	Unincorporated Areas of Wilkes County.
	Approximately 0.6 mile upstream of Sparta Road/NC Highway 18.	+1,405	
Naked Creek	At the confluence with Lewis Fork	+1,075	Unincorporated Areas of Wilkes County.
	Approximately 110 feet downstream of Dr. Miles Road (State Road 1152).	+1,172	
North Fork Reddies River	At the confluence with Reddies River	+1,167	Unincorporated Areas of Wilkes County.
	Approximately 200 feet downstream of Vannoy Road (State Road 1575).	+1,460	
North Little Hunting Creek	At the Wilkes/Yadkin County boundary	+1,024	Unincorporated Areas of Wilkes County.
	Approximately 1,410 feet upstream of Somers Road (State Road 2400).	+1,119	
North Little Hunting Creek Tributary 3.	At the confluence with North Little Hunting Creek	+1,039	Unincorporated Areas of Wilkes County.
	Approximately 610 feet upstream of the U.S. Highway 421 East ramp.	+1,069	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground modified	Communities affected
North Little Hunting Creek Tributary 4.	At the confluence with North Little Hunting Creek	+1,069	Unincorporated Areas of Wilkes County.
	Approximately 410 feet upstream of Somers Road (State Road 2400).	+1,098	
North Prong Lewis Fork	At the confluence with Lewis Fork	+1,077	Unincorporated Areas of Wilkes County.
	Approximately 2.0 miles upstream of Big Ivy Road (State Road 1360).	+1,698	
Osborn Creek	At the confluence with Hunting Creek	+895	Unincorporated Areas of Wilkes County.
	Approximately 1.1 miles upstream of Hunting Creek Road (State Road 2412).	+1,044	
Pumpkin Creek	At the confluence with Warrior Creek	+1,075	Unincorporated Areas of Wilkes County.
	Approximately 0.4 mile upstream of Pumpkin Creek Road (State Road 11933).	+1,163	
Pumpkin Run	At the confluence with South Prong Lewis Fork	+1,298	Unincorporated Areas of Wilkes County.
	Approximately 1.0 mile upstream of Pumpkin Run Road (State Road 1303).	+1,400	
Reddies River	At the confluence with Yadkin River	+964	Unincorporated Areas of Wilkes County, Town of North Wilkesboro.
	At the confluence of Middle Fork Reddies River and South Fork Reddies River.	+1,202	
Roaring River	At the confluence with Yadkin River	+936	Unincorporated Areas of Wilkes County.
	At the confluence of East Prong Roaring River and Middle Prong Roaring River.	+1,009	
Rocky Creek	At the Wilkes/Alexander County boundary	+1,192	Unincorporated Areas of Wilkes County.
	Approximately 1.0 mile upstream of the confluence of Rocky Creek Tributary 1.	+1,287	
Rocky Creek Tributary 1	At the confluence with Rocky Creek	+1,255	Unincorporated Areas of Wilkes County.
	Approximately 1,500 feet upstream of the confluence with Rocky Creek.	+1,263	
Shell Creek	At the confluence with Stony Fork	+1,164	Unincorporated Areas of Wilkes County.
	Approximately 870 feet upstream of Mt. Zion Road (State Road 1155).	+1,197	
South Fork Reddies River	At the confluence with Reddies River	+1,202	Unincorporated Areas of Wilkes County.
	Approximately 50 feet upstream of White Oak Road (State Road 1355).	+1,388	
South Prong Lewis Fork	At the confluence with Lewis Fork	+1,077	Unincorporated Areas of Wilkes County.
	Approximately 1.2 miles upstream of the confluence of Fletcher Creek.	+1,478	
South Prong Lewis Fork Tributary 1.	At the confluence with South Prong Lewis Fork	+1,195	Unincorporated Areas of Wilkes County.
	Approximately 2.4 miles upstream of the confluence with South Prong Lewis Fork.	+1,536	
Sparks Creek	At the confluence with Little Sandy Creek	+1,108	Unincorporated Areas of Wilkes County.
	Approximately 800 feet downstream of Cook-Lyon Road	+1,200	
Stony Fork	At the confluence with Yadkin River	+1,078	Unincorporated Areas of Wilkes County.
	At the Watauga/Wilkes County boundary	+1,975	
Swan Creek	At the confluence with Yadkin River	+911	Unincorporated Areas of Wilkes County.
	At the confluence of East Swan Creek and West Swan Creek.	+911	
Tributary M–1–1	Approximately 50 feet upstream of the confluence with Tributary M–1.	+1,071	Unincorporated Areas of Wilkes County, Town of North Wilkesboro.
	Approximately 0.5 mile upstream of Elkin Highway/NC Highway 268.	+1,160	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground modified	Communities affected
Tributary R–1	Approximately 1,360 feet upstream of Finley Street	+1,090	Town of North Wilkesboro.
	Approximately 0.4 mile upstream of Finley Street	+1,126	
Tributary R–1–1	Approximately 100 feet upstream of the confluence with Tributary R–1.	+1,047	Town of North Wilkesboro.
	Approximately 0.4 mile upstream of the confluence with Tributary R–1.	+1,153	
Tributary Y–1	At the confluence with Yadkin River	+957	Town of North Wilkesboro.
	Approximately 0.6 mile upstream of the confluence of Tributary Y–1–1.	+1,088	
Tributary Y–1–1	At the confluence with Tributary Y–1	+959	Town of North Wilkesboro.
	Approximately 0.4 mile upstream of the confluence with Tributary Y–1.	+1,072	
Tributary Y–2	At the confluence with Yadkin River	+962	Town of North Wilkesboro.
	Approximately 0.7 mile upstream of 2nd Street/U.S. Highway 421.	+1,078	
Tributary Y–3	At the confluence with Yadkin River	+963	Town of North Wilkesboro.
	Approximately 100 feet downstream of D Street	+996	
Warrior Creek	At the confluence with Yadkin River	+1,075	Unincorporated Areas of Wilkes County.
	Approximately 830 feet upstream of NC Highway 18	+1,107	
West Prong Moravian Creek	At the confluence with Moravian Creek	+1,068	Unincorporated Areas of Wilkes County.
	Approximately 1.3 miles upstream of Falls Road (State Road 1108).	+1,184	
West Prong Moravian Creek Tributary 1.	At the confluence with West Prong Moravian Creek	+1,075	Unincorporated Areas of Wilkes County.
	Approximately 510 feet downstream of Falls Road (State Road 1108).	+1,100	
West Prong Roaring River	At the confluence with Middle Prong Roaring River	+1,091	Unincorporated Areas of Wilkes County.
	Approximately 2.4 miles upstream of State Road 1731	+1,561	
West Swan Creek	At the confluence with Swan Creek	+911	Unincorporated Areas of Wilkes County.
	Approximately 0.8 mile upstream of Bagley Springs Road (State Road 2311).	+944	
Whites Creek	At the confluence with Yadkin River	+1,075	Unincorporated Areas of Wilkes County.
	Approximately 1.1 miles upstream of NC Highway 268	+1,094	
Yadkin River	Approximately 200 feet downstream of the Yadkin/Wilkes County boundary.	+903	Unincorporated Areas of Wilkes County, Town of North Wilkesboro, Town of Ronda, Town of Wilkesboro.
	At the Caldwell/Wilkes County boundary	+1,090	
Yadkin River Tributary 14	At the confluence with Yadkin River	+903	Unincorporated Areas of Wilkes County.
	Approximately 0.9 mile upstream of State Road 2306	+917	
Yadkin River Tributary 15	At the confluence with Yadkin River	+919	Unincorporated Areas of Wilkes County.
	Approximately 1.7 miles upstream of the confluence with Yadkin River.	+942	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Town of North Wilkesboro
Maps are available for inspection at North Wilkesboro Town Hall, 832 Main Street, North Wilkesboro, North Carolina.

Town of Ronda
Maps are available for inspection at Ronda Town Hall, 123 Chatham Street, Ronda, North Carolina.

Town of Wilkesboro
Maps are available for inspection at Wilkesboro Town Hall, 203 West Main Street, Wilkesboro, North Carolina.

Unincorporated Areas of Wilkes County
Maps are available for inspection at Wilkes County Office Building, 110 North Street, Wilkesboro, North Carolina.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground modified	Communities affected
Providence County, Rhode Island, and Incorporated Areas FEMA Docket No.: B–7746			
Blackstone River	Just downstream of Exchange Street	+34	City of Central Falls, City of Pawtucket, City of Woonsocket, Town of Cumberland, Town of Lincoln, Town of North Smithfield.
	Approximately 2,100 feet upstream of the confluence of Slaterville River Branch.	+158	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Central Falls
Maps are available for inspection at City Hall, 580 Broad Street, Central Falls, RI 02863.

City of Pawtucket
Maps are available for inspection at City Hall, 137 Roosevelt Avenue, Pawtucket, RI 02860.

City of Woonsocket
Maps are available for inspection at City Hall, 169 Main Street, Woonsocket, RI 02895.

Town of Cumberland
Maps are available for inspection at Town Hall, 45 Broad Street, Cumberland, RI 02864.

Town of Lincoln
Maps are available for inspection at Town Hall, 100 Old River Road, Lincoln, RI 02865.

Town of North Smithfield
Maps are available for inspection at Town Hall, 575 Smithfield Road, North Smithfield, RI 02896.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground modified	Communities affected
Door County, Wisconsin, and Incorporated Areas FEMA Docket No.: D–7800			
Ahnapee River	Approximately 0.6 mile downstream of County Highway J	+587	Village of Forestville.
	Approximately 400 feet upstream of County Highway J	+590	
Green Bay	Approximately 800 feet north of the intersection of County Highway CC and Lime Kiln Road.	+585	Door County (Unincorporated Areas) Village of Egg Harbor, Village of Sister Bay.
	Approximately 900 feet west of the intersection of State Highway 42 and Garrett Bay Road.	+585	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Door County (Unincorporated Areas)
Maps are available for inspection at Door County Courthouse, 421 Nebraska Street, Sturgeon Bay, WI 54235–0670.

Village of Egg Harbor
Maps are available for inspection at Village of Egg Harbor Village Hall, 7860 Highway 42, Egg Harbor, WI 54209.

Village of Forestville
Maps are available for inspection at Village of Forestville Village Hall, 123 South Forestville Avenue, Forestville, WI 54213.

Village of Sister Bay
Maps are available for inspection at Village of Sister Bay Village Hall, 421 Maple Drive, Sister Bay, WI 54234.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground modified	Communities affected
Washakie County, Wyoming, and Incorporated Areas FEMA Docket No.: B–7755			
Sage Creek	Downstream—just upstream of confluence with Bighorn River.	+4056	City of Worland, Unincorporated Areas of Washakie County.
	Upstream—approximately 400 ft downstream of intersection County Ln 13 and Upper Hanover Canal Rd.	+4141	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground modified	Communities affected

ADDRESSES

City of Worland
Maps are available for inspection at 1001 Big Horn Avenue, Worland, WY 82401.

Town of Ten Sleep
Maps are available for inspection at 1001 Big Horn Avenue, Worland, WY 82401.

Unincorporated Areas of Washakie County
Maps are available for inspection at 1001 Big Horn Avenue, Worland, WY 82401.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: September 15, 2008.

Michael K. Buckley,

Acting Assistant Administrator, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E8–22524 Filed 9–24–08; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

Public Mobile Services

CFR Correction

In title 47 of the Code of Federal Regulations, part 22, revised as of Oct. 1, 2007, on page 78, in § 22.709, paragraph (b)(3) is reinstated to read as follows:

§ 22.709 Rural radiotelephone service application requirements.

* * * * *

(b)* * *

* * * * *

(3) The center frequency of each channel requested, the maximum effective radiated power, the effective radiated power in each of the cardinal radial directions, any non-standard emission types to be used, including bandwidth and modulation type, the transmitter classification (e.g. central office), and the locations and call signs, if any, of any fixed points of communication.

* * * * *

[FR Doc. E8–22599 Filed 9–24–08; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

GENERAL SERVICES AGENCY

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 51

Use of Government Sources by Contractors

CFR Correction

In title 48 of the Code of Federal Regulations, part 51, revised as of October 1, 2007, on page 956, in § 51.107, the last sentence is removed.

[FR Doc. E8–22596 Filed 9–24–08; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

GENERAL SERVICES AGENCY

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 422

Application of Labor Laws to Government Acquisitions

CFR Correction

In title 48 of the Code of Federal Regulations, part 422, revised as of October 1, 2007, on page 127, §§ 422.1303 and 422.1306 are redesignated as §§ 422.1305 and 422.1308, respectively.

[FR Doc. E8–22597 Filed 9–24–08; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

[FWS–R9–MB–2007–0012; 91200–1231–9BPP]

RIN 1018–AV35

Migratory Bird Permits; Revisions to Migratory Bird Import and Export Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correcting amendments.

SUMMARY: We, the U.S. Fish and Wildlife Service, published a document in the **Federal Register** on August 13, 2008 that revised the regulations governing migratory bird permitting. That document inadvertently used the term ''migratory game birds'' in a way that contradicts the existing definition of that term elsewhere in our regulations. This document corrects the final regulations.

DATES: This rule is effective on September 25, 2008.

FOR FURTHER INFORMATION CONTACT: Dr. George T. Allen, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 703–358–1825.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 2008, we published a document in the **Federal Register** (73 FR 47092) that revised the regulations governing migratory bird permitting at 50 CFR part 21. Section 21.21(b) of the revised regulations concern import and export permits for migratory birds. In that section, we inadvertently used the term ''migratory game birds'' in a way that contradicts the existing definition of that term in our regulations at 50 CFR 20.11(a). The definition at 50 CFR 20.11(a) limits the definition of ''migratory game birds'' to, among other things, those migratory birds ''for which

open seasons are prescribed'' in part 20. Because of this definition, many of the migratory birds that we had intended 50 CFR 21.21(b) to cover are not covered by the new regulations. We are therefore publishing this document to correct the final regulations by revising § 21.21(b) to remove the term ''migratory game birds'' and instead use the more generic term ''migratory birds.''

List of Subjects in 50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

■ Accordingly, 50 CFR part 21 is corrected by making the following correcting amendments:

PART 21—MIGRATORY BIRD PERMITS

■ 1. The authority citation for part 21 continues to read as follows:

Authority: Migratory Bird Treaty Act, 40 Stat. 755 (16 U.S.C. 703); Public Law 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)); Public Law 106–108, 113 Stat. 1491, Note following 16 U.S.C. 703.

§ 21.21 [Amended]

■ 2. In § 21.21, amend paragraph (b) introductory text by:

■ a. Removing the words ''Game bird'' from the heading; and

■ b. Removing the word ''game'' both times that it appears in the second and third sentences.

Dated: September 19, 2008.

Sara Prigan,

Federal Register Liaison.

[FR Doc. E8–22516 Filed 9–24–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 070727426–81200–01]

RIN 0648–AV18

Endangered and Threatened Species: Final Protective Regulations for Threatened Puget Sound Steelhead

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

ACTION: Final rule.

SUMMARY: We, NMFS, apply the Endangered Species Act (ESA) protective regulations for threatened West Coast salmon and steelhead to the distinct population segment (DPS) of steelhead (*Oncorhynchus mykiss*) in Puget Sound, Washington.

DATES: The effective date of this rule is October 27, 2008.

ADDRESSES: NMFS, Protected Resources Division, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Steve Stone, NMFS, Northwest Region, at (503) 231–2317; or Marta Nammack, NMFS, Office of Protected Resources, at (301) 713 1401. Reference materials regarding protective regulations for this and other threatened salmonids are available upon request or on the Internet at *http://www.nwr.noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

ESA section 9(a)(1) (16 U.S.C. 1538(a)(1)) prohibits ''take'' and import/export of, and commercial transactions involving, all species listed as endangered. The term ''take'' is defined under the ESA as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct'' (Section 3(19), 16 U.S.C. 1532 (19)). In the case of threatened species, section 4(d) of the ESA directs the Secretary of Commerce (Secretary) to issue regulations he or she deems necessary and advisable for the conservation of the species. The 4(d) protective regulations may prohibit, with respect to threatened species, some or all of the acts which section 9(a)(1) of the ESA prohibits with respect to endangered species. These 9(a)(1) prohibitions and 4(d) regulations apply to all individuals, organizations, and agencies subject to U.S. jurisdiction.

Since 1997 we have promulgated a total of 29 limits to the ESA section 9(a) take prohibitions for 21 threatened Pacific salmon and steelhead Evolutionarily Significant Units (ESUs) or Distinct Populations Segments (DPSs) (62 FR 38479, July 18, 1997; 65 FR 42422, July 10, 2000; 65 FR 42485, July 10, 2000; 67 FR 1116, January 9, 2002; 73 FR 7816, February 11, 2008). On June 28, 2005, as part of the final listing determinations for 16 ESUs of West Coast salmon, we amended and streamlined the previously promulgated 4(d) protective regulations for threatened salmon and steelhead (70 FR 37160). We took this action to provide appropriate flexibility to ensure that fisheries and artificial propagation programs are managed consistently with the conservation needs of threatened salmon and steelhead. Under this change, the section 4(d) protections apply to natural and hatchery fish with an intact adipose fin, but not to listed hatchery fish that have had their adipose fin removed prior to release into the wild. Additionally, we made several simplifying and clarifying changes to the 4(d) protective regulations including updating an expired limit (§ 223.203(b)(2)), providing a temporary exemption for ongoing research and enhancement activities, and applying the same set of 14 limits to all threatened Pacific salmon and steelhead ESUs or DPSs.

On March 29, 2006, we proposed to list the Puget Sound steelhead DPS as a threatened species (71 FR 15666). On February 7, 2007 (72 FR 5648), we proposed protective regulations for Puget Sound steelhead under section 4(d) of the ESA. On May 11, 2007, we issued a final determination listing the Puget Sound steelhead DPS as threatened, and we announced that we would finalize protective regulations in a subsequent **Federal Register** notice (72 FR 26722). In this final rule we apply the 4(d) protective regulations adopted for other Pacific salmonids, as amended in June 2005 (70 FR 37160; June 28, 2005), to Puget Sound steelhead.

Summary of Comments Received in Response to the Proposed Rule

We solicited public comment on the proposed protective regulations and draft Environmental Assessment (EA) (72 FR 5648; February 7, 2007) and received nine comments in response. Comments received consisted of e-mails and letters submitted by or for the following entities: Lummi Nation, Muckleshoot Indian Tribe, Native Fish Society, Port Gamble S'Klallam and Jamestown S'Klallam Tribes, Tulalip Tribes of Washington, U.S. Department of Interior, Washington Forest Protection Association, Western States Petroleum Association, and Wild Fish Conservancy. Copies of the full text of comments received are available upon request (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**). Below we address the comments received that pertain to proposed protective regulations for Puget Sound steelhead.

Comment 1: One commenter recommended that we re-open the comment period on the proposed 4(d) limits after making a final listing determination. This commenter also believed that we should explain each of the 4(d) limits in greater detail to prevent confusion regarding which 4(d) limits would be in effect for Puget Sound steelhead.

Response: We have described the same 4(d) limits presently being applied to Puget Sound steelhead in previously published **Federal Register** notices (65 FR 42422, July 10, 2000; 65 FR 42485, July 10, 2000; 69 FR 33102; June 14,

2004; 70 FR 37160, June 28, 2005). We do not believe that providing additional time for comment would result in substantive new information beyond that which we have already considered during this and previous rulemakings. To reduce confusion and enhance public understanding of the various 4(d) limits, we are in the process of updating a comprehensive ''Citizen's Guide to the 4(d) Rule'' available on the Internet at *http://www.nwr.noaa.gov*. At this website we also identify agency contacts who can assist interested parties in understanding the take prohibitions and which 4(d) limits are relevant to their anticipated activities.

Comment 2: One commenter suggested that it was not necessary to issue a 4(d) rule for Puget Sound steelhead because ESA protective regulations already exist for a number of other co-occurring species in Puget Sound. Another commenter was skeptical that the 4(d) limits would be effective at conserving steelhead, contending that many of the limits were based on vague criteria and would place responsibility on local agencies that have failed to meet their existing mandates to conserve steelhead. In contrast, another commenter asserted that the adoption of the proposed protective regulations was the most appropriate action for protecting Puget Sound steelhead.

Response: We acknowledge that existing ESA protective regulations for co-occurring species such as Puget Sound Chinook and Hood Canal summer-run chum salmon (both listed as threatened species under the ESA) provide some level of protection to Puget Sound steelhead. There are many activities that the existing regulations would not cover, however, such as the take of steelhead in fisheries or for hatchery broodstock. In addition, there are areas and times where Puget Sound steelhead are the only listed species that occur. Protective regulations prohibiting take of Puget Sound steelhead will specifically address the take of listed steelhead. Applying the existing limits on the take prohibition to Puget Sound steelhead will provide incentives and opportunities for interested parties to work with us to address a wide spectrum of human activities that will continue to pose a threat to steelhead unless they are managed in ways that adequately protect listed steelhead.

We also acknowledge that management efforts to date have not been sufficient to prevent Puget Sound steelhead from becoming a threatened species. However, we believe that state, tribal, and local governments remain in the best position to help develop and implement conservation strategies for listed species. During 8 years of implementing these 4(d) protections we have worked with state, tribal, and local governments throughout the Pacific Northwest to achieve significant conservation benefits for listed species. Such achievements include more efficient review and implementation of hundreds of scientific studies on threatened salmon and steelhead, and closer coordination to craft Fishery Management Evaluation Plans (FMEP), Hatchery Genetic Management Plans, and Tribal Resource Management Plans.

Comment 3: One commenter recommended that we describe the current status of the Forest Practices Habitat Conservation Plan (HCP) in Washington and clarify that ESA take prohibitions need not apply to lands covered by this and other HCPs.

Response: Section 10 of the ESA allows us to issue permits for the take of a listed species. The process requires that a non-federal permit applicant develop and submit an HCP to NMFS. We coordinate with applicants, provide technical assistance to ensure use of the best available science, and ensure that National Environmental Policy Act (NEPA) and ESA procedures are followed. Once an HCP is final and all parties agree to the plan, we issue an ESA Section 10 incidental take permit for the listed species. HCPs are often in effect for many decades to provide the greatest benefits of functioning habitats, while permitting land management under stable regulations. This ESA regulatory assurance is particularly attractive to landowners with long-term investments, such as timber growers or water suppliers. While applicants' future activities under an HCP may cause a low level of unintentional injury or death to listed salmon and steelhead, the habitat they manage will support long-term survival and recovery of those fish.

On June 5, 2006, NMFS issued an incidental take permit under section 10 of the ESA to the Washington Department of Natural Resources that covers activities and forestlands identified in the Washington State Forest Practices HCP. This HCP is a 50–year agreement for protection of Washington's streams and forests that provide habitat for more than 70 aquatic species, including threatened or endangered salmon and steelhead. The incidental take permit includes a provision that, ''for unlisted covered species, the permit will take effect upon the listing of a species as endangered, and for a species listed as threatened, on the effective date of a rule under Section 4(d) of the ESA prohibiting take of the species.''

One of the 4(d) limits that will be in effect for Puget Sound steelhead recognizes that entities holding a permit under section 10 of the ESA (or receiving other exemptions of the ESA) are free of take prohibitions so long as they act in accordance with the permit or applicable law (§ 223.203(b)(1)). Therefore, approved HCPs in the range of Puget Sound steelhead including the Washington State Forest Practices HCP would comply with this 4(d) limit.

Comment 4: Several commenters requested that we delay adoption of a 4(d) rule until we engaged in government-to-government consultations with affected Indian tribes. These commenters also asserted that requiring the release of all steelhead with an intact adipose fin would discriminate against tribal fishermen by disrupting net fisheries and precluding access to large quantities of harvestable salmon and steelhead in order to avoid taking a small number of unmarked steelhead.

Response: We recognize that the tribes have longstanding cultural ties to steelhead and steelhead fisheries, and that a number of tribes have treaty-based rights. We also understand that an ESA listing of Puget Sound steelhead may impact some tribal fisheries and resource management agencies, at least in the short term. Soon after listing Puget Sound steelhead as a threatened species, we met and consulted with several of the affected tribes to discuss implications for their steelhead management. All Puget Sound steelhead fisheries are regulated, either by the State of Washington or by tribal governments. These discussions have continued to date and are expected to result in a comprehensive new fisheries management plan for Puget Sound steelhead from tribal and state comanagers. This plan will address all manner of steelhead harvest, including tribal net fisheries. We will review this plan, including public input and revisions to it, and determine if it meets the criteria for coverage under one or more of the 4(d) limits. To accommodate development and review of the plan, this final 4(d) rule provides for a delay in the effective date for take prohibitions associated with tribal and recreational steelhead harvest until June 1, 2009, so long as that harvest is not directed at naturally spawning stocks and is authorized either by a federally recognized treaty tribe or the State of Washington. By the beginning of the 2010 winter fishing season, we expect such harvest to be addressed by two relevant 4(d) limits: § 223.203(b)(4) -

fishery harvest activities associated with an approved FMEP, and § 223.203(b)(6) - actions undertaken in compliance with a resource management plan developed jointly by the States of Washington, Oregon, and/or Idaho and the Tribes (joint plan) within the continuing jurisdiction of *United States* v. *Washington* or *United States* v. *Oregon*. Delaying the take prohibitions pertaining to steelhead harvest until June 2009 (one fishing season) is not expected to pose undue risk to listed steelhead. In the final listing determination (72 FR 26722; May 11, 2007), we observed that a primary threat to Puget Sound steelhead is the natural spawning of out-of-basin hatchery steelhead. Allowing the present level of hatchery-directed harvest to continue through June 2009 will assist in removing existing hatchery fish before they are able to spawn. We also concluded in the final listing determination that previous harvest management practices likely contributed to the historical decline of Puget Sound steelhead, but that the elimination of the directed harvest of wild steelhead in the mid 1990s has largely addressed this threat. Based on these factors we concluded that suspending the take prohibition for one fishing season would be consistent with conservation of the Puget Sound steelhead ESU.

Comment 5: One commenter requested that we explain how the EA has complied with applicable case law. This commenter also asserted that we should explain if and how we intend to conduct ESA section 7 consultation pertaining to the proposed issuance of a 4(d) rule.

Response: The EA developed in support of these 4(d) regulations was prepared in accordance with NOAA directives, policies, and guidelines for implementing the NEPA, Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, and NOAA Administrative Order (NAO) 216–6. A NEPA Handbook, available on the Internet at *http://www.nepa.noaa.gov*, describes these and other relevant legal requirements and describes how we apply them.

We also have certain consultation responsibilities under section 7 of the ESA when making determinations regarding a specific 4(d) limit. That is, we must conduct a consultation to ensure that the proposed action (e.g., adopting an FMEP under § 223.203(b)(4)) will not jeopardize the continued existence of listed salmonids or destroy or adversely modify designated critical habitat. In addition, we must consider any adverse effects on designated essential fish habitat (EFH) by completing a consultation as required by the Magnuson-Stevens Act. Generally, ESA and EFH consultations are conducted concurrently. As detailed in an updated ''4(d) Rule Implementation Binder for Threatened Salmon and Steelhead on the West Coast'' (available on the Internet at *http://www.nwr.noaa.gov/ESA-Salmon-Regulations-Permits/4d-Rules/*), we expect that our 4(d) limit evaluations will provide a large part of the biological analysis required for the ESA section 7/EFH consultation.

Comment 6: One commenter noted that juvenile steelhead and rainbow trout are similar in appearance and requested that we explain how take prohibitions would apply to the former but not the latter life form. Another commenter believed that protective regulations should apply to both resident and anadromous life forms and that we should require applicants for take authorization to undertake efforts to research the relationship between the two forms and incorporate the findings into management actions.

Response: As described in the final listing determination for the Puget Sound steelhead DPS (72 FR 26722; May 11, 2007), resident *O. mykiss* occur within the range of the DPS but are not part of the DPS due to marked differences in physical, physiological, ecological, and behavioral characteristics. Only anadromous *O. mykiss* are listed in this DPS and subject to the ESA 4(d) take regulations. We recognize that it is difficult to distinguish between the two life forms, especially juvenile fish. Therefore we encourage the public to carefully consider the impacts of activities that might result in taking either life form and recommend that they consult with NMFS (see contacts at *http://www.nwr.noaa.gov/Regional-Office/Habitat-Conservation/Washington-State-Branch/*) or state or tribal biologists familiar with steelhead in the area of concern.

There is a critical need to improve our understanding of the interactions between the anadromous and resident life forms of O. mykiss, and, when appropriate, we will encourage applicants for take authorization to undertake efforts to research the relationship between the two forms and incorporate the findings into management actions and additional scientific research. Such research could elucidate the factors affecting reproductive exchange between the two life forms, as well as their respective contributions to the viability of *O. mykiss* as a whole. These considerations may prove to be important in the context of recovery planning and assessing risks faced by the *O. mykiss* species as a whole. At present, there is insufficient information to evaluate whether, under what circumstances, and to what extent the resident form may contribute to the viability of steelhead over the long term (Recovery Science Review Panel, 2004; Good *et al.*, 2005; Independent Scientific Advisory Board, 2005; NMFS, 2005).

Description of Protective Regulations Being Afforded Puget Sound Steelhead

Consistent with the June 28, 2005 amended 4(d) protective regulations (70 FR 37160), this final rule applies the ESA section 9(a)(1) take prohibitions (subject to the limits discussed below) to unmarked anadromous fish with an intact adipose fin that are part of the Puget Sound steelhead DPS. (The clipping of adipose fins in juvenile hatchery fish just prior to release into the natural environment is a commonly employed method for the marking of hatchery production). We believe this approach provides needed flexibility to appropriately manage the artificial propagation and directed take of threatened salmon and steelhead for the conservation and recovery of the listed species.

The June 2005 amended ESA 4(d) protective regulations simplified the previously promulgated 4(d) rules by adopting the same set of 14 limits for all threatened salmon and steelhead. These limits allow us to exempt certain activities from the take prohibitions, provided that the applicable programs and regulations meet specific conditions to adequately protect the listed species. In this final rule we adopt this same set of 14 limits for Puget Sound steelhead. Comprehensive descriptions of each 4(d) limit are contained in ''A Citizen's Guide to the 4(d) Rule'' (available on the Internet at *http://www.nwr.noaa.gov*), and in previously published **Federal Register** notices (65 FR 42422, July 10, 2000; 65 FR 42485, July 10, 2000; 69 FR 33102; June 14, 2004; 70 FR 37160, June 28, 2005). These limits include: activities conducted in accordance with ESA section 10 incidental take authorization (50 CFR 223.203(b)(1)); ongoing scientific and conservation activities for which a permit application has been timely submitted, and treaty and non-treaty fisheries for which a comanager's management plan has been timely submitted (§ 223.203(b)(2)); emergency actions related to injured, stranded, or dead salmonids (§ 223.203(b)(3)); fishery management activities (§ 223.203(b)(4)); hatchery and genetic management programs

(§ 223.203(b)(5)); activities in compliance with joint tribal/state plans developed within *United States (U.S.)* v. *Washington* or *U.S.* v. *Oregon* (§ 223.203(b)(6)); scientific research activities conducted or permitted by the states (§ 223.203(b)(7)); state, local, and private habitat restoration activities (§ 223.203(b)(8)); properly screened water diversion devices (§ 223.203(b)(9)); routine road maintenance activities (§ 223.203(b)(10)); certain park pest management activities (§ 223.203(b)(11)); certain municipal, residential, commercial, and industrial development and redevelopment activities (§ 223.203(b)(12)); forest management activities on state and private lands within the State of Washington (§ 223.203(b)(13)); and activities undertaken consistent with an approved tribal resource management plan (§ 223.204).

Limits § 223.203(b)(4) and § 223.203(b)(6) address fishery management plans. As noted in our response to comments above, steelhead comanagers and stakeholders in the State of Washington have been actively working to develop a comprehensive management plan for Puget Sound steelhead. We have participated in the development of this plan and will review it for compliance with the above 4(d) limits. We have reviewed existing state and tribal fisheries management regimes and concluded that implementation of these regimes for the balance of the current fishing season is adequate for conservation of Puget Sound steelhead, until a comprehensive regime is adopted (NMFS, 2008). Therefore, steelhead harvest is not prohibited until June 1, 2009, so long as the harvest is authorized by the State of Washington or a tribe with jurisdiction over steelhead. If NMFS does not receive a fishery management plan for Puget Sound steelhead by November 14, 2008, subsequent take by harvest will be subject to the take prohibitions.

Section 223.203(b)(2) exempts scientific or artificial propagation activities with pending applications for ESA approval. The limit was amended as part of the June 28, 2005, final listing determination for West Coast salmon and steelhead to temporarily exempt such activities from the take prohibitions for 6 months, provided that a complete application was received within 60 days of the notice's publication (70 FR 37160). The deadlines associated with this exemption were most recently extended to address research related to threatened Oregon Coast coho salmon (73 FR 7816; February 11, 2008), but one of these deadlines has now expired. As discussed in the proposed rule (69 FR 33102; June 14, 2004), it is in the interest of the conservation and recovery of Puget Sound steelhead to allow ongoing research and enhancement activities to continue uninterrupted while we process the necessary permits and approvals. For modified research requests received by November 14, 2008, the take prohibitions will not apply to research and enhancement activities until the application is rejected as insufficient, a permit or 4(d) approval is issued, or until June 1, 2009, whichever occurs earliest. The length of this ''grace period'' is necessary because we process applications for 4(d) approval annually.

Classification

National Environmental Policy Act (NEPA)

We conducted an EA under the NEPA analyzing the proposed application of the 4(d) protective regulations to Puget Sound steelhead. We solicited and received comments on the EA as part of the proposed rule. Informed by the comments received, we finalized the EA on August 25, 2008, and issued a finding of no significant impact for promulgation of the 4(d) protective regulations.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. As a result, no regulatory flexibility analysis is required and none has been prepared. The factual basis for this certification follows:

Under section 4(d) of the ESA, NMFS is required to adopt such regulations as it deems necessary and advisable for the conservation of species listed as threatened, which may include prohibiting ''take'' of the threatened species. Steelhead are considered a game fish in Washington State, and in Puget Sound are primarily harvested in recreational fisheries. The entities that provide goods and services to steelhead fisheries range in size from multi-national corporations and chain stores to local family businesses. Except for the multi-national corporations and chain stores, most of these entities are small businesses that include bait and tackle suppliers, guides, and lodging and related service providers. These entities do not support steelhead fisheries exclusively, but instead provide goods and services related to a variety of other fisheries as well, e.g., for salmon and trout. The economic output associated with sport fisheries for Puget Sound steelhead is estimated to be approximately $29 million per year, most of which ($19.5 million) is associated with the winter steelhead fishery (Washington Department of Fish and Wildlife, 2006).

NMFS has previously adopted ESA 4(d) rules prohibiting (with some limits) take of all Pacific salmon and steelhead (salmonid) species listed as threatened under the ESA. NMFS now proposes to apply the Section 9(a)(1) take prohibitions (subject to the limits discussed above and applicable to other threatened Pacific salmon and steelhead) to unmarked steelhead with an intact adipose fin that are part of the Puget Sound steelhead DPS. Because these prohibitions and associated limits address other threatened Pacific salmonids whose range overlaps that of Puget Sound steelhead, this final rule would not add a significant impact to the existing regulatory scheme. In addition, non-tribal harvest regulations currently prohibit, and are expected to continue to prohibit, the retention of fish with an intact adipose fin, and so are consistent with the 4(d) rule. Fisheries in the foreseeable future will thus be largely unaffected. In the long term, fisheries may be affected by changes in hatchery production. Landowners will be affected only in those areas (primarily headwater streams) where the range of the Puget Sound steelhead DPS does not overlap with that of already-listed species whose take is already prohibited. Thus, this final rule will not have significant impacts on small entities.

Paperwork Reduction Act (PRA)

This final rule does not contain a collection-of-information requirement for purposes of the PRA.

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

We prepared a regulatory impact review in 2000 when the ESA section 4(d) regulations were initially adopted and concluded that among the alternative regulatory approaches, the proposed 4(d) rule would maximize net benefits and minimize costs, within the constraints of the ESA. We have reviewed that analysis and new information available since the analysis was initially prepared, including OMB Circular A–4 (2003). We have determined that none of the new information would change the earlier analysis or conclusion.

E.O. 12988 Civil Justice Reform

We have determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988. We issue protective regulations pursuant to provisions in the ESA using an existing approach that improves the clarity of the regulations and minimizes the regulatory burden of managing ESA listings while retaining necessary and advisable protections to provide for the conservation of threatened species.

E.O. 13132 Federalism

E.O. 13132 requires agencies to take into account any federalism impacts of regulations under development. It includes specific consultation directives for situations where a regulation will preempt state law, or impose substantial direct compliance costs on state and local governments (unless required by statute). Neither of those circumstances is applicable to this rulemaking. In fact, this rule includes mechanisms by which we, in the form of 4(d) limits to take prohibitions, may defer to state and local governments where they provide adequate protections for Puget Sound steelhead.

E.O. 13175 – Consultation and Coordination with Indian Tribal Governments

The longstanding and distinctive relationship between the Federal and tribal governments is defined by treaties, statutes, executive orders, judicial decisions, and co-management agreements. These differentiate tribal governments from the other entities that deal with, or are affected by, the Federal Government. This relationship has given rise to a special Federal trust responsibility involving the legal responsibilities and obligations of the United States toward Indian Tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights. E.O. 13175 outlines the responsibilities of the Federal Government in matters affecting tribal interests. During our status review of Puget Sound steelhead we solicited information from the tribes, met with several tribal governments and associated tribal fisheries commissions, and provided the opportunity for all interested tribes to comment on the proposed listing of this DPS and discuss any concerns they may have. Several tribes submitted comments during the public comment period. We thoroughly considered and incorporated them, as appropriate, into our final determinations regarding listing and take prohibitions. We will continue to coordinate with the tribes on management and conservation actions related to this species.

E.O. 13211 – Energy Supply, Distribution, or Use

E.O. 13211 requires agencies to prepare a statement of energy effects when undertaking certain actions. According to E.O. 13211, ''significant energy action'' means any action by an agency that is expected to lead to the promulgation of a final rule or regulation that is a significant regulatory action under E.O. 12866 and is likely to have a significant adverse effect on the supply, distribution, or use of energy. We have determined that the energy effects of this final rule are unlikely to exceed the energy impact thresholds identified in E.O. 13211 and that this rulemaking is, therefore, not a significant energy action. No statement of energy effects is required.

References

A complete list of all references cited herein is available upon request (see **ADDRESSES**), or can be obtained from the Internet at: *http://www.nwr.noaa.gov*.

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Transportation.

Dated: September 22, 2008.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 223 is amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543.

■ 2. In § 223.203, paragraphs (a), (b) introductory text, and (b)(2) are revised to read as follows:

§ 223.203 Anadromous fish.

* * * * *

(a) *Prohibitions.* The prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) relating to endangered species apply to fish with an intact adipose fin that are part of the threatened species of salmonids listed in § 223.102(c)(3) through (c)(24).

(b) *Limits on the prohibitions.* The limits to the prohibitions of paragraph (a) of this section relating to threatened species of salmonids listed in § 223.102(c)(3) through (c)(24) are described in the following paragraphs (b)(1) through (b)(13):

* * * * *

(2) The prohibitions of paragraph (a) of this section relating to threatened Puget Sound steelhead listed in § 223.102(c)(23) do not apply to:

(i) Activities specified in an application for a permit for scientific purposes or to enhance the conservation or survival of the species, provided that the application has been received by the Assistant Administrator for Fisheries, NOAA (AA), no later than November 14, 2008. The prohibitions of this section apply to these activities upon the AA's rejection of the application as insufficient, upon issuance or denial of a permit, or June 1, 2009, whichever occurs earliest, or

(ii) Steelhead harvested in tribal or recreational fisheries prior to June 1, 2009, so long as the harvest is authorized by the State of Washington or a tribe with jurisdiction over steelhead harvest. If NMFS does not receive a fishery management plan for Puget Sound steelhead by November 14, 2008, subsequent take by harvest will be subject to the take prohibitions.

* * * * *

[FR Doc. E8–22556 Filed 9–24–08; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 187
Thursday, September 25, 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–2008–1019; Directorate Identifier 2007–NE–49–AD]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. LTS101 Series Turboshaft and LTP101 Series Turboprop Engines

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Honeywell International Inc. LTS101 series turboshaft and LTP101 series turboprop engines with certain gas generator turbine discs installed. This proposed AD would require reducing the life limits for certain gas generator turbine discs. This proposed AD results from an error in a change to the engineering drawing for the gas generator turbine disc from which they manufactured 260 discs. We are proposing this AD to prevent rupture of the gas generator turbine disc, which could result in uncontained engine failure and damage to the aircraft.

DATES: We must receive any comments on this proposed AD by November 24, 2008.

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

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

You can get the service information identified in this proposed AD from Honeywell International Inc., P.O. Box 52181, Phoenix, AZ 85072–2181, U.S.A.; telephone (800) 601–3099 (U.S.A.) or (602) 365–3099 (International); *Web site: http://portal.honeywell.com/wps/portal/aero.*

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; *e-mail: robert.baitoo@faa.gov*; telephone (562) 627–5245; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2008–1019; Directorate Identifier 2007–NE–49–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Examining the AD Docket

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

Discussion

Honeywell International Inc. has informed us that they manufactured 260 gas generator turbine discs to an erroneous drawing change. Because of this, the gas generator turbine disc could rupture before reaching its published life limit. This condition, if not corrected, could result in uncontained engine failure and damage to the aircraft.

Relevant Service Information

We have reviewed and approved the technical contents of Honeywell International Inc. Service Bulletin (SB) LT 101–71–00–0002, Revision 25, dated August 31, 2007, that describes a reduced life limit and drawdown schedules for certain gas generator turbine discs and lists the serial numbers of those discs.

Differences Between the Proposed AD and the Manufacturer's Service Information

Although the SB applies to all LTS101 turboshaft engines and LTP101 turboprop engines, this proposed AD would not apply to models LTS101–700D–2 and LTS101–850B–2 turboshaft engines because the affected discs are not eligible for installation on those engine models. We also revised the drawdown schedules in Table 1 of this proposed AD to make the grace periods consistent.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require removing any disc, part number (P/N) 4–111–015–14 that has a serial number (SN) listed in Appendix 1 of SB LT 101–71–00–0002, Revision 25, dated August 31, 2007, using the drawdown schedules

specified in Table 1 of this proposed AD.

The proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

We estimate that this proposed AD would affect 260 engines installed on aircraft of U.S. registry. We also estimate that it would take 1.0 work-hour per engine to perform the proposed actions, and that the average labor rate is $80 per work-hour. Required parts would cost about $8,000 per engine. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $2,100,800.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Honeywell International Inc. (Formerly AlliedSignal, Textron Lycoming, and Avco Lycoming): Docket No. FAA–2008–1019; Directorate Identifier 2007–NE–49–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by November 24, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Honeywell International Inc. models LTS101–600A–2, –600A–3, –600A–3A, –650B–1, –650B–1A, –650C–2, –650C–3, –650C–3A, –750A–1, –750A–3, –750B–1, –750B–2, and –750C–1 turboshaft engines and LTP101–600A–1A and –700A–1A turboprop engines with certain gas generator turbine discs, part number (P/N) 4–111–015–14, installed. These engines are installed on, but not limited to, Eurocopter France AS350, Eurocopter Deutchland GMBH BK117, and Bell Helicopter Textron 222 helicopters; and Page Thrush, Air Tractor AT–302, Industrie Aeronautiche e Meccaniche (formerly Piaggio & Co.) P166–DL3, Pacific Aero 08–600, and Riley International R421 airplanes.

Unsafe Condition

(d) This AD results from an error in a change to the engineering drawing for the gas generator turbine disc from which they manufactured 260 discs. We are issuing this AD to prevent rupture of the gas generator turbine disc, which could result in uncontained engine failure and damage to the aircraft.

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.

Drawdown Schedule and New Reduced Life Limit for Certain Gas Generator Turbine Discs

(f) For model LTS101–600A–3 and –750 series turboshaft engines and model LTP101–600A–1A and –700A–1A turboprop engines that have a gas generator turbine disc serial number (SN) specified in Appendix 1 of Honeywell International Inc. Service Bulletin (SB) LT 101–71–00–0002, Revision 25, dated August 31, 2007; remove the engine using the drawdown schedule specified in Table 1 of this AD.

TABLE 1—DRAWDOWN SCHEDULE

Engine model	If disc cycle count on the effective date of this AD is—	Then remove disc—
(1) LTS101–600A–3 and –750 series turboshaft engines.	(i) Fewer than 4,940 cycles-since-new (CSN)	Before accumulating 5,040 CSN.
	(ii) 4,940 or more CSN	Within 100 cycles-in-service (CIS) or 4 months, whichever occurs earlier.
(2) LTP101–600A–1A and –700A–1A turboprop engines.	(i) Fewer than 2,720 CSN	Before accumulating 2,770 CSN.
	(ii) 2,720 or more CSN	Within 50 CIS or 4 months after the effective date of this AD, whichever occurs earlier.

Installation Prohibitions

(g) After the effective date of this AD, don't install any model LTS101–600A–3 or –750 series turboshaft engine that has a gas generator turbine disc, P/N 4–111–015–14, with a SN listed in Appendix 1 of Honeywell International Inc. SB LT 101–71–00–0002, Revision 25, dated August 31, 2007; if that disc has 5,040 or more CSN.

(h) After the effective date of this AD, don't install any model LTP101–600A–1A or –700A–1A turboprop engine that has a gas generator turbine disc, P/N 4–111–015–14, with a SN listed in Appendix 1 of Honeywell International Inc. SB LT 101–71–00–0002, Revision 25, dated August 31, 2007; if that disc has 2,770 or more CSN.

Alternative Methods of Compliance

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

Related Information

(j) Honeywell International Inc. Service Bulletin LT 101–71–00–0002, Revision 25, dated August 31, 2007, pertains to the subject of this AD.

(k) Contact Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; *e-mail: robert.baitoo@faa.gov*; telephone (562) 627–5245; fax (562) 627–5210, for more information about this AD.

Issued in Burlington, Massachusetts, on September 19, 2008.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E8–22522 Filed 9–24–08; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 455

[Project No. P087604]

Used Motor Vehicle Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Reopening of period within which to submit comments in response to request for public comments.

SUMMARY: On July 21, 2008, the Federal Trade Commission (''FTC'' or ''Commission'') published a **Federal Register** document soliciting public comments in connection with its review of the Used Motor Vehicle Trade Regulation Rule (''Used Car Rule'' or ''Rule''). The document stated that comments must be received by September 19, 2008. In response to a request to extend the comment period received on September 12, 2008, the Commission has determined to reopen and extend the comment period until November 19, 2008.

DATES: Comments addressing the Used Car Rule must be received on or before November 19, 2008.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''Used Car Regulatory Review, Matter No. P087604'' to facilitate the organization of comments. Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c).[1] Comments should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records and other individually identifiable health information. In addition, comments should not include any ''[t]rade secrets and commercial or financial information obtained from a person and privileged or confidential. . . .,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2) (2008).

Because paper mail in the Washington area, and specifically to the FTC, is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (*https://secure.commentworks.com/ftc-UsedCarRuleReview*) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (*https://secure.commentworks.com/ftc-UsedCarRuleReview*). If this document appears at *http://www.regulations.gov*, you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at *http://www.ftc.gov/opa/2008/07/ucr.shtm* to read the **Federal Register** document announcing the request for public comments and the news release describing it.

A comment filed in paper form should include the ''Used Car Rule Regulatory Review, P087604'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex H), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*).

FOR FURTHER INFORMATION CONTACT: John C. Hallerud, Attorney, Midwest Region, Federal Trade Commission, 55 West Monroe Street, Suite 1825, Chicago, Illinois 60603, (312) 960-5615.

SUPPLEMENTARY INFORMATION: The Commission's July 21, 2008 **Federal Register** document seeks comments on the Rule's costs, benefits, and effectiveness. The document seeks comments on whether the Rule should permit used car dealers to use a single bilingual Buyers Guide and, if so, on how to design a bilingual Buyers Guide. The document also asks for comments on the Buyers Guide's pre-printed list of systems and major defects. In addition, the document solicits comments on whether the Rule should be revised to permit dealers to use alternative Buyers Guides when disclosing manufacturer's warranties and other third-party warranties.

On September 12, 2008, the Commission received a joint letter from Consumer Action, Consumers for Auto Reliability and Safety, the Consumer Federation of America, the National Association of Consumer Advocates, and the National Consumer Law Center requesting that the comment period be extended for sixty days. Among other reasons supporting the request, these organizations cite their need to conduct research to address the numerous questions raised in the Commission's **Federal Register** document and changes that have occurred in the automotive marketplace and information technologies since the Commission last

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

reviewed the Rule. The organizations argue that they will be able to present more carefully considered comments if provided an additional sixty days to comment.

Based on the arguments raised in the joint letter, the Commission believes that an extension of the initial sixty-day comment period until November 19, 2008 is reasonable. The additional time should enable the organizations that sent the letter and other commenters to submit detailed and thoughtful comments in response to the document. Accordingly, the Commission has decided to extend the comment period set forth in the July 21, 2008 **Federal Register** document until November 19, 2008.

By direction of the Commission.

Donald S. Clark

Secretary

[FR Doc. E8–22415 Filed 9–24–08: 8:45 am]

BILLING CODE 6750–01–S

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM06–22–000]

Mandatory Reliability Standards for Critical Infrastructure Protection

Issued September 18, 2008.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order on proposed clarification.

SUMMARY: The Commission is proposing to clarify that the facilities within a nuclear generation plant in the United States that are not regulated by the U.S. Nuclear Regulatory Commission are subject to compliance with the eight mandatory ''CIP'' Reliability Standards approved in Commission Order No. 706.

DATES: Comments are due October 20, 2008.

ADDRESSES: You may submit comments, identified by docket number by any of the following methods:

• *Agency Web Site: http://ferc.gov*. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

• *Mail/Hand Delivery:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Jonathan First (Legal Information), Office of General Counsel, 888 First Street, NE., Washington, DC 20426, (202) 502–8529.

Regis Binder (Technical Information), Office of Electric Reliability, 888 First Street, NE., Washington, DC 20426, (202) 502–6460.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Joseph T. Kelliher, Chairman; Suedeen G. Kelly, Marc Spitzer, Philip D. Moeller, and Jon Wellinghoff.

1. In this order, the Commission proposes to clarify the scope of the eight Critical Infrastructure Protection (CIP) Reliability Standards [1] approved in Order No. 706 to assure that no ''gap'' occurs in the applicability of these Standards.[2] In particular, each of the eight CIP Reliability Standards provides that facilities regulated by the U.S. Nuclear Regulatory Commission (NRC) are exempt from the Standard. It has come to the attention of the Commission that the NRC does not regulate all facilities within a nuclear generation plant. Thus, to assure that there is no ''gap'' in the regulatory process, the Commission proposes to clarify that the facilities within a nuclear generation plant in the United States that are *not* regulated by the NRC are subject to compliance with the eight CIP Reliability Standards approved in Order No. 706.

2. Comments on the Commission's proposed clarification are due 30 days from the date of issuance of this order, after which the Commission intends to issue a further order on the matter.

Background

3. The North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), developed eight CIP Reliability Standards that require certain users, owners and operators of the Bulk-Power System to comply with specific requirements to safeguard critical cyber assets. In January 2008, pursuant to section 215 of the Federal Power Act (FPA),[3] the Commission approved the eight CIP Reliability Standards. In addition, pursuant to section 215(d)(5) of the FPA,[4] the Commission directed the ERO to develop modifications to the CIP Reliability Standards to address specific concerns identified by the Commission.

4. Each of the eight CIP Reliability Standards includes an exemption for facilities regulated by the NRC. For example, Reliability Standard CIP–002–1 provides:

> The following are exempt from Standard CIP–002: Facilities Regulated by the U.S. Nuclear Regulatory Commission. * * * [5]

5. In an April 8, 2008 public joint meeting of the Commission and the NRC, staff of both Commissions discussed cyber security at nuclear generation plants. While NRC staff indicated that the NRC has proposed regulations to address cybersecurity at nuclear generation plants,[6] NRC staff raised a concern regarding a potential gap in regulatory coverage. In particular, NRC staff indicated that the NRC's proposed regulations on cybersecurity would not apply to all systems within a nuclear generation plant. NRC staff explained:

> The NRC's cyber requirements are not going to extend to power continuity systems. They do not extend directly to what is not directly associated with reactor safety security or emergency response. * * *
>
> As a result, and when you look at the CIP standards that were issued, there is a discrete statement in each of the seven or eight standards where it specifically exempts facilities regulated by the United States Nuclear Regulatory Commission from compliance with those CIP Standards. So there is an issue there in the sense that our regulations for cyber security go up to a certain point, and end.[7]

Discussion

6. The Commission shares the concern raised at the April 8, 2008 joint meeting. It appears that the NRC's regulation of a nuclear generation plant is limited to the facilities that are associated with reactor safety or emergency response.[8] The Commission believes that a nuclear generation plant will likely include critical assets and critical cyber assets that are not safety related and, therefore, not regulated by the NRC. For example, facilities that pertain to the ''continuity of operation'' of a nuclear generation plant may be

[1] Reliability Standards CIP–002–1 through CIP–009–1. Reliability Standard CIP–001–1, which pertains to sabotage reporting, does not include the exemption statement that is the subject of this order.

[2] *Mandatory Reliability Standards for Critical Infrastructure Protection,* Order No. 706, 73 FR 7368 (Feb. 7, 2008), 122 FERC ¶ 61,040, *order on reh'g,* 123 FERC ¶ 61,174 (2008).

[3] 16 U.S.C. § 824o (2006).

[4] 16 U.S.C. § 824o(d)(5).

[5] Reliability Standard CIP–002–1, section 4.2 (Applicability).

[6] Nuclear Regulatory Commission, Notice of Proposed Rulemaking, *Power Reactor Security Requirements,* NRC Docket No. RIN 3150–AG63 (Oct. 2006).

[7] April 8, 2008, Joint Meeting of the Nuclear Regulatory Commission and Federal Regulatory Commission, Tr. at 77–78.

[8] *See id. See also* 42 U.S.C. 2133, 2201 and 2232.

necessary for the generation of electricity that affects the reliability of Bulk-Power System but not have a role in reactor safety. The Commission understands that such facilities would not be subject to compliance with cyber security regulations developed by the NRC.

7. The Commission believes that the plain meaning of the exemption language in the eight CIP Reliability Standards at issue is that only those facilities within a nuclear generation plant that are regulated by the NRC are exempt from those Standards. The exemption language in the eight CIP Reliability Standards neither states, nor implies, that *all* facilities within a nuclear generation plant are exempt from the Standards, regardless of whether they are subject to NRC regulation. However, the Commission believes there is a need to assure that there is no potential gap in the regulation of critical cyber assets at nuclear generation plants and to assure that there is no misunderstanding of the scope of the exemption in the CIP Reliability Standards. The Commission, therefore, proposes to clarify that Reliability Standards CIP–002–1 through CIP–009–1 apply to the facilities within a nuclear generation plant that are not regulated by the NRC.

8. To be clear, the Commission's intent is to eliminate a potential gap in the regulation of critical assets and critical cyber assets at nuclear generation plants in the United States. The Commission reaffirms the language of the CIP Reliability Standards—and respects the jurisdiction of the NRC—and does not intend that those Standards apply to facilities within a nuclear generation plant that are regulated by the NRC. This should allay concerns that a specific facility is subject to ''dual'' regulation by both the Commission and NRC as to cyber security.

9. In addition to comments on the proposed clarification, the Commission seeks comment on the following two related matters:

Whether there is a clear delineation between those facilities within a nuclear generation plant that pertain to reactor safety security or emergency response and the non-safety portion or, as NRC refers to it, the ''balance of plant.'' For example, the generator itself in a nuclear generation plant would seem to be under the CIP Reliability Standards, but the motors that operate nuclear reactor control rods would seem to be under NRC regulation. If the delineation is not clear, is there a need for owners and/or operators of nuclear generation plants to identify the specific facilities that pertain to reactor safety security or emergency response and subject to NRC regulation, and the balance of plant that is subject to the eight CIP Reliability Standards?

In Order No. 706, the Commission approved NERC's ''(Revised) Implementation Plan for Cyber Security Standards CIP–001–1 through CIP–009–1'' for the eight cybersecurity Reliability Standards. The implementation plan provides a staggered approach to implementation that includes three tables with separate timelines for various industry segments. Table 3, which applies to generation owners and generation operators, requires achieving compliance with the requirements of the CIP Reliability Standards by December 31, 2009. The only requirement that has a different compliance date in Table 3 is CIP–003–1 Requirement R2, which must be complied with by June 30, 2008. The Commission seeks comment on whether Table 3 for generation owners and generation operators should control the implementation schedule of the CIP Reliability Standards to the facilities within a nuclear generation plant that the NRC does not regulate.

10. Comments on the Commission's proposed clarification are due 30 days from the date of issuance of this order, after which the Commission intends to issue a further order on the matter.

The Commission orders: The Commission directs that this order be published in the **Federal Register**. Comments on the Commission's proposed clarification are due 30 days from the date of issuance of this order.

By the Commission.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–22198 Filed 9–24–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96–1–029]

Standards for Business Practices of Interstate Natural Gas Pipelines

September 18, 2008.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is proposing to amend its regulations governing standards for business practices of interstate natural gas pipelines to incorporate by reference the most recent version of the standards, Version 1.8, adopted by the Wholesale Gas Quadrant of the North American Energy Standards Board (NAESB) and to make other minor corrections.

DATES: Comments are due November 10, 2008.

ADDRESSES: You may submit comments, identified by docket number by any of the following methods:

- *Agency Web Site: http://www.ferc.gov*. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery*: Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Gary D. Cohen, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, 202–502–8321.

William W. Lohrman, Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, 202–502–8070.

Kay I. Morice, Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, 202–502–6507.

SUPPLEMENTARY INFORMATION:

1. The Federal Energy Regulatory Commission (Commission) proposes to amend § 284.12 of its regulations (which prescribes standards for pipeline business operations and communications) [1] to incorporate by reference the most recent version, Version 1.8, of the consensus standards adopted by the Wholesale Gas Quadrant (WGQ) of the North American Energy Standards Board (NAESB) (Version 1.8 Standards). In addition, the Commission proposes to amend § 284.12(b) of its regulations to make minor corrections.

I. Background

2. Since 1996, in the Order No. 587 series,[2] the Commission has adopted regulations to standardize the business practices and communication methodologies of interstate pipelines in order to create a more integrated and efficient pipeline grid. In this series of orders, the Commission incorporated by reference consensus standards developed by the WGQ (formerly the Gas Industry Standards Board or GISB),

[1] 18 CFR 284.12.

[2] *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587, 61 FR 39,053 (July 26, 1996), FERC Statutes and Regulations, Regulations Preambles July 1996–December 2000 ¶ 31,038 (July 17, 1996).

a private consensus standards developer composed of members from all segments of the natural gas industry. The WGQ is an accredited standards organization under the auspices of the American National Standards Institute (ANSI). NAESB's stated mission is to ''take the lead in developing and implementing standards across the industry to simplify and expand electronic communication, and to streamline business practices. The vision of NAESB is a seamless North American marketplace for energy, as recognized by its customers, the business community, industry participants and regulatory bodies.'' [3]

3. On September 14, 2007, NAESB submitted a report to the Commission stating that it had adopted a new version of its standards, Version 1.8, dated September 30, 2006.[4] NAESB reports that the Version 1.8 Standards include a new set of standards for ''Internet Electronic Transport'' that is applicable to the retail gas and electric markets as well as the wholesale gas market, changes to the Electronic Delivery Mechanism (EDM) Related Standards, an additional standard related to reporting on gas quality, and maintenance changes to the Nomination Related Standards and Flowing Gas Related Standards.[5] NAESB also reports that the Version 1.8 standards include several standards already adopted by the Commission, including gas-electric coordination standards to support communications between pipelines and gas-fired generators,[6] gas quality reporting standards to support reporting of gas quality specifications and reporting of the underlying assumptions and methodologies, and business practice standards to support implementation of Order No. 2004 on Standards of Conduct.[7]

II. Discussion

4. The Commission proposes to incorporate by reference in its regulations Version 1.8 of the NAESB WGQ's consensus standards,[8] with two exceptions.[9] Adoption of Version 1.8 will continue the process of updating and improving NAESB's business practice standards for the wholesale gas market. The new Internet Electronic Transport Related Standards will help create a more seamless electronic marketplace by providing consistent electronic protocols across the wholesale gas, as well as the retail gas and retail electric markets. The standards also include a new standard for gas quality reporting (Standard 4.3.93) that will provide the industry with important information about how pipelines determine gas quality. Standard 4.3.93 requires that the pipelines post on their web sites specific information on how the pipelines determine gas quality, including the industry standard (or other methodology, as applicable) that the pipeline uses for the following: procedures used for obtaining natural gas samples, analytical test method(s), and calculation method(s), in conjunction with any physical constant(s) and underlying assumption(s). The revisions to the Nomination Related Standards and Flowing Gas Related Standards are designed to ensure that these standards reflect current market practices.[10]

5. The NAESB WGQ approved the Version 1.8 Standards under NAESB's consensus procedures.[11] As the Commission found in Order No. 587, adoption of consensus standards is appropriate because the consensus process helps ensure the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of industry participants representing all segments of the industry. Moreover, since the industry itself has to conduct business under these standards, the Commission's regulations should reflect those standards that have the widest possible support. In section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTT&AA), Congress affirmatively requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB, as means to carry out policy objectives or activities.[12]

6. The Commission proposes that natural gas pipelines be required to implement the Version 1.8 Standards on the first day of the month three months after a final rule is issued. Based on past practice, we are proposing this implementation schedule in order to give the natural gas pipelines subject to these standards adequate time to prepare for these changes. In addition, the Commission proposes that pipelines be required to file tariff sheets to reflect the changed standards two months before the implementation date.

7. In Order No. 712,[13] the Commission recently revised various aspects of the Commission's capacity release standards, revisions which bear upon the current NAESB standards in Version 1.8. We appreciate NAESB's quick

[3] NAESB WGQ Working Paper on Internet Electronic Transport at 6, dated Mar. 3, 2004.

[4] Some of the standards subsequently were corrected and these minor corrections were applied to the Version 1.8 Capacity Release Related Standards on Dec. 13, 2006.

[5] The NAESB WGQ adopted *Internet Electronic Transport Related Standards*, Version 1.8, on Sept. 30, 2006. The EDM Standards require pipelines to conduct certain standardized business transactions across the Internet according to certain prescribed protocols. In this NOPR, the Commission proposes to make these standards mandatory for interstate natural gas pipelines. We are not proposing to make these standards mandatory for retail transactions.

[6] *Standards for Business Practices for Interstate Natural Gas Pipelines; Standards for Business Practices for Public Utilities*, Order No. 698, 72 FR 38,757 (July 16, 2007), FERC Stats. & Regs., Regulations Preambles ¶ 31,251 (June 25, 2007); Order No. 698-A, *order granting clarification and denying reh'g*, 121 FERC ¶ 61,264 (2007).

[7] Standards of Conduct for Transmission Providers, Order No. 2004, 68 FR 69,134 (Dec. 11, 2003), FERC Stats. & Regs., Regulations Preambles ¶ 31,155 (Nov. 25, 2003); Order No. 2004–A, *order on reh'g*, 69 FR 23,562 (Apr. 29, 2004), FERC Stats. & Regs., Regulations Preambles ¶ 31,161 (Apr. 16, 2004); Order No. 2004–B, *order on reh'g*, 69 FR 48,371 (Aug. 10, 2004), FERC Stats. & Regs., Regulations and Preambles ¶ 31,166 (Aug. 2, 2004); Order No. 2004–C, *order on reh'g*, 70 FR 284 (Jan. 4, 2005), FERC Stats. & Regs., Regulations Preambles ¶ 31,172 (Dec. 21, 2004); Order No. 2004–D, *order on clarification and reh'g*, 110 FERC ¶ 61,320 (2005).

[8] In its Version 1.8 Standards, the WEQ made the following changes to its Version 1.7 standards:

It revised Principles 1.1.9, 4.1.2, 4.1.6, and 4.1.7, Definitions 2.2.4, 4.2.1, 4.2.11, 4.2.12, 4.2.13, and 4.2.20, Standards 1.3.54, 1.3.60, 1.3.61, 1.3.63, 2.3.21, 2.3.35, 2.3.51, 4.3.1, 4.3.2, 4.3.5, 4.3.16, 4.3.18, 4.3.22, 4.3.23, and 4.3.25, and Datasets 1.4.1 through 1.4.7, 2.4.1 through 2.4.4, 2.4.7, 2.4.8, 3.4.1, 5.4.1 through 5.4.3, 5.4.5, 5.4.7 through 5.4.11, 5.4.13, 5.4.14, 5.4.15, and 5.4.18 through 5.4.22.

It added Principles 0.1.3, 4.1.40, and 10.1.1 through 10.1.9, Definitions 0.2.1, 0.2.2, 0.2.3, and 10.2.1 through 10.2.38, Standards 0.3.11 through 0.3.15, 2.3.65, 4.3.89 through 4.3.93, and 10.3.1 through 10.3.25, and Data Sets 0.4.1, 2.4.17, 2.4.18, and 5.4.23.

It deleted Principles 4.1.9 and 4.1.25, and Standards 4.3.6, 4.3.19, 4.3.21, and 4.3.63.

It deleted the following standards from the EDM Related Standards and moved them to the Internet Electronic Transport Related Standards: Standards 4.3.7 through 4.3.15, 4.3.37, 4.3.64, 4.3.70, 4.3.71, and 4.3.88.

[9] The Commission is continuing its past practice and is not proposing to incorporate by reference Standards 4.3.4 and 10.3.2., because they are inconsistent with the Commission's record retention requirement in 18 CFR 284.12(b)(3)(v).

[10] In addition, the Commission proposes to amend § 284.12(b) to make two minor corrections. First, we propose to correct the reference to the ''Gas Industry Standards Board'' to refer to the ''North American Energy Standards Board Wholesale Gas Quadrant.'' Second, we propose to correct the reference to the paragraph incorporating the NAESB standards by reference from paragraph (b)(1) to paragraph (a)(1).

[11] This process first requires a super-majority vote of 17 out of 25 members of the WGQ's Executive Committee with support from at least two members from each of the five industry segments—Distributors, End Users, Pipelines, Producers, and Services (including marketers and computer service providers). For final approval, 67 percent of the WGQ's general membership voting must ratify the standards.

[12] Pub L. No. 104–113, section 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

[13] *Promotion of a More Efficient Capacity Release Market*, Order No. 712, 73 FR 37058 (June 30, 2008), FERC Stats. & Regs., Regulations Preambles ¶ 31,271 (June 19, 2008).

action in already starting the process of revising its standards.[14] Creating standardized procedures applicable to asset manager agreements (AMAs), releases related to state retail unbundling initiatives, and the other changes adopted in that rule will help to make conducting and reporting these processes more efficient. Order No. 712 requires that the pipelines add additional information to their Internet websites. As part of NAESB's reexamination of its posting standard (Standard 5.4.20), NAESB should seek to make sure that its revisions result in a consistent system of reporting capacity release information relative to capacity recall conditions, AMAs, state unbundling releases, storage, and other categories of releases, so that the Commission and the public easily will be able to identify the releases in each category and any terms and conditions applicable to those releases.[15]

III. Notice of Use of Voluntary Consensus Standards

8. Office of Management and Budget Circular A–119 (section 11) (February 10, 1998) provides that federal agencies should publish a request for comment in a NOPR when the agency is seeking to issue or revise a regulation proposing to adopt a voluntary consensus standard or a government-unique standard. In this NOPR, the Commission is proposing to incorporate by reference voluntary consensus standards developed by the WGQ.

IV. Information Collection Statement

9. The following collections of information contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. The ''public protection'' provisions of the Paperwork Reduction Act of 1995 require each agency to display a currently valid control number and inform respondents that a response is not required unless the information collection displays a valid OMB control number on each information collection or provides a justification as to why the information collection number cannot be displayed. In the case of information collections published in regulations, the control number is to be published in the **Federal Register**. The following burden estimate includes the costs to implement the Version 1.8 Standards, which incorporate the most recent and up-to-date standards governing business practices of and electronic communication with interstate natural gas pipelines. The burden estimates are primarily related to start-up to implement the latest version of the standards and will not result in on-going costs.

Data collection	Number of respondents	Number of responses per respondent	Hours per response	Total number of hours
FERC–545[16]	168	1	10	1,680
FERC–549C[17]	126	1	1,181	148,806

Total Annual Hours for Collection (Reporting and Recordkeeping (if appropriate)) = 150,486.

10. *Information Collection Costs:* The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost for all respondents to be the following:

	FERC–545	FERC–549C
Annualized Capital/Startup Costs	$211,680	$12,743,010
Annualized Costs (Operations & Maintenance)	0	0
Total Annualized Costs	211,680	12,743,010

Total Cost for all Respondents = 12,954,690.

11. OMB regulations[18] require OMB to approve certain information collection requirements imposed by agency rule. The Commission is submitting notification of this proposed rule to OMB.

Title: FERC–545, Gas Pipeline Rates: Rates Change (Non-Formal); FERC–549C, Standards for Business Practices of Interstate Natural Gas Pipelines.

Action: Proposed collections.

OMB Control Nos.: 1902–0154, 1902–0174.

Respondents: Business or other for profit (Interstate natural gas pipelines (Not applicable to small business)).

Frequency of Responses: One-time implementation (business procedures, capital/start-up).

Necessity of Information: This proposed rule, if implemented, would upgrade the Commission's current business practice and communication standards to the latest edition approved by the NAESB WGQ (i.e., the Version 1.8 Standards). The implementation of these standards is necessary to increase the efficiency of the pipeline grid, make pipelines' electronic communications

[14] *See* Minutes of July 1, 2008 Meeting of the WGQ Business Practice Subcommittee, *http://naesb.org/pdf3/wgq_bps_712_070108fm.doc.*

[15] The current standard, for example, does not separately require a specific posting of whether capacity is subject to recall, apparently leaving this information to be included in Special Terms and Miscellaneous Notes. Given the additional types of information that must now be posted, NAESB needs to consider whether including all this information in Special Terms and Miscellaneous Notes is still appropriate.

[16] Data collection FERC–545 covers rate change filings made by natural gas pipelines, including tariff changes. (OMB Control No. 1902–0154).

[17] Data collection FERC–549C covers Standards for Business Practices of Interstate Natural Gas Pipelines. (OMB Control No. 1902–0174).

[18] 5 CFR 1320.11.

more secure, and is consistent with the mandate that agencies provide for electronic disclosure of information.[19] Requiring such information ensures both a common means of communication and common business practices that provide participants engaged in transactions with interstate pipelines with timely information and uniform business procedures across multiple pipelines.

12. The information collection requirements of this proposed rule will be reported directly to the industry users. The implementation of these data requirements will help the Commission carry out its responsibilities under the Natural Gas Act to monitor activities of the natural gas industry to ensure its competitiveness and to assure the improved efficiency of the industry's operations. The Commission's Office of Energy Market Regulation will use the data in rate proceedings to review rate and tariff changes by natural gas companies for the transportation of gas, for general industry oversight, and to supplement the documentation used during the Commission's audit process.

13. *Internal Review:* The Commission has reviewed the requirements pertaining to business practices and electronic communication with interstate natural gas pipelines and made a determination that the proposed revisions are necessary to establish a more efficient and integrated pipeline grid. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

14. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, *Attention:* Michael Miller, Office of the Executive Director, *Phone:* (202) 502–8415, *fax:* (202) 273–0873, *E-mail: michael.miller@ferc.gov*].

15. Comments concerning the collection of information(s) and the associated burden estimate(s), should be sent to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [*Attention:* Desk Officer for the Federal Energy Regulatory Commission, *phone:* (202) 395–7345, *fax:* (202) 395–7285].

[19] 44 U.S.C. 3504 note, Pub. L. 105–277, 1701, 112 Stat. 2681–749 (1998).

V. Environmental Analysis

16. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[20] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[21] The actions proposed here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.[22] Therefore, an environmental assessment is unnecessary and has not been prepared as part of this NOPR.

VI. Regulatory Flexibility Act Certification

17. The Regulatory Flexibility Act of 1980 (RFA) [23] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. In drafting a rule an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment.[24] In its NOPR, the agency must either include an initial regulatory flexibility analysis (Initial RFA) [25] or certify that the proposed rule will not have a ''significant impact on a substantial number of small entities.'' [26]

18. The regulations proposed here impose requirements only on interstate pipelines, the majority of which are not small businesses. In this regard, we note that, under the industry standards used for the RFA, a natural gas pipeline company qualifies as a ''small entity'' if it had annual receipts of $6.5 million or less.[27] Most companies regulated by the Commission do not fall within the RFA's definition of a small entity. Approximately 168 entities would be potential respondents subject to data collection FERC–545 reporting requirements; of those, about 126 natural gas companies (including storage) would also be subject to data collection FERC 549–C reporting requirements. Nearly all of these entities are large entities. For the year 2007 (the most recent year for which information is available), only four companies not affiliated with larger companies had annual revenues of less than $6.5 million, which is about three percent of the total universe of potential respondents. Moreover, these requirements are designed to benefit all customers, including small businesses. As noted above, adoption of consensus standards helps ensure the reasonable of the standards by requiring that the standards draw support from a broad spectrum of industry participants representing all segments of the industry. Because of that representation and the fact that industry conducts business under these standards, the Commission's regulations should reflect those standards that have the widest possible support.

19. Accordingly, pursuant to § 605(b) of the RFA, the Commission hereby certifies that the regulations proposed herein will not have a significant adverse impact on a substantial number of small entities.

VII. Comment Procedures

20. The Commission invites interested persons to submit written comments on the matters and issues proposed for incorporation by reference in this NOPR, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due November 10, 2008. Comments must refer to Docket No. RM96–1–029, and must include the commenter's name, the organization they represent, if applicable, and their address. Comments may be filed either in electronic or paper format.

21. Comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in certain other file formats. Commenters filing electronically do not need to make

[20] Order No. 486, *Regulations Implementing the National Environmental Policy Act of 1969*, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783 (Dec. 10, 1987).

[21] 18 CFR 380.4.

[22] *See* 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

[23] 5 U.S.C. 601–612.

[24] 5 U.S.C. 601–604.

[25] 5 U.S.C. 603(a).

[26] 5 U.S.C. 605(b).

[27] 5 U.S.C. 601(3), *citing* section 3 of the Small Business Act, 15 U.S.C. 623. Section 3 of the SBA defines a ''small business concern'' as a business which is independently owned and operated and which is not dominant in its field of operation. The Small Business Size Standards component of the North American Industry Classification System (NAICS) defines a small natural gas pipeline company as one that transports natural gas and whose annual receipts (total income plus cost of goods sold) did not exceed $6.5 million for the previous year.

a paper filing. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426. For paper filings, the original and 14 copies of such comments should be submitted to the Secretary of the Commission, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

22. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely, as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VIII. Document Availability

23. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

24. From FERC's Home Page on the Internet, this information is available in eLibrary. The full text of this document is available in eLibrary both in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number, excluding the last three digits of this document in the docket number field.

25. User assistance is available for eLibrary and the FERC's Web site during the Commission's normal business hours. For assistance, contact FERC Online Support by e-mail at *FERCOnlineSupport@ferc.gov*, or by telephone at 202–502–6652 (toll-free at (866) 208–3676) or for TTY, contact (202) 502–8659.

List of Subjects in 18 CFR Part 284

Continental shelf, Incorporation by reference, Natural gas, Reporting and recordkeeping requirements.

By direction of the Commission.

Kimberly D. Bose,

Secretary.

In consideration of the foregoing, the Commission proposes to amend part 284, Chapter I, Title 18, *Code of Federal Regulations*, as follows:

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

1. The authority citation for part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352; 43 U.S.C. 1331–1356.

2. Section 284.12 is amended by revising paragraphs (a)(1)(i) through (vi), adding paragraph (a)(1)(vii), and revising the introductory text of paragraph (b) to read as follows:

§ 284.12 Standards for pipeline business operations and communications.

(a) * * *

(1) * * *

(i) Additional Standards (General Standards, Creditworthiness Standards, and Gas/Electric Operational Communications Standards) (Version 1.8, September 30, 2006);

(ii) Nominations Related Standards (Version 1.8, September 30, 2006);

(iii) Flowing Gas Related Standards (Version 1.8, September 30, 2006);

(iv) Invoicing Related Standards (Version 1.8, September 30, 2006);

(v) Quadrant Electronic Delivery Mechanism Related Standards (Version 1.8, September 30, 2006) with the exception of Standard 4.3.4;

(vi) Capacity Release Related Standards (Version 1.8, September 30, 2006 (with minor corrections applied December 13, 2006); and

(vii) Internet Electronic Transport Related Standards (Version 1.8, September 30, 2006) with the exception of Standard 10.3.2.

* * * * *

(b) *Business practices and electronic communication requirements.* An interstate pipeline that transports gas under subparts B or G of this part must comply with the following requirements. The regulations in this paragraph adopt the abbreviations and definitions contained in the North American Energy Standards Board Wholesale Gas Quadrant standards incorporated by reference in paragraph (a)(1) of this section.

* * * * *

[FR Doc. E8–22206 Filed 9–24–08; 8:45 am]

BILLING CODE 6717–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3001

[Docket No. RM2008–6; Order No. 108]

Periodic Reporting Rules

AGENCY: Postal Regulatory Commission.

ACTION: Proposed rule; availability of rulemaking petition.

SUMMARY: Under a new law, the Postal Service must file an annual compliance report with the Postal Regulatory Commission on costs, revenues, rates, and quality of service associated with its products. It has filed documents with the Commission to change some of the methods it uses to compile the fiscal year 2008 report. In the Commission's view, these documents constitute a rulemaking petition. Therefore, this document provides an opportunity for the public to comment on potential changes in periodic reporting rules.

DATES: *1. Initial comments:* September 26, 2008.

2. Reply comments: October 3, 2008.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION: *Regulatory History,* 73 FR 51983 (September 8, 2008).

On September 12, 2008, the Postal Service filed a petition to initiate an informal rulemaking proceeding comparable to Docket No. RM2008–2 to consider two more proposed changes to the costing methods approved for periodic reporting.[1] In Docket No. RM2008–2, nine numbered proposals are the subject of notice and comment rulemaking procedures. The Postal Service proposes that the two additional proposed changes be referred to as Proposal Ten and Proposal Eleven to avoid confusion with the nine proposals already under review. The Postal Service's petition describes its two additional proposals, explains their background, objectives, rationale, and, to the extent possible, their likely impact in FY 2008.

I. Procedural Expedition

The same factors that led the Commission to expedite review of the

[1] Petition of the United States Postal Service Requesting Initiation of a Proceeding to Consider Further Proposed Methodology Changes for the FY 2008 ACR (Proposals Ten-Eleven), September 12, 2008 (Petition).

nine proposals in Docket No. RM2008–2 apply here. There are fewer proposals and they appear to be simpler and potentially less controversial than there were in Docket No. RM2008–2. Accordingly, the Commission will set a shorter period for comments and reply comments for these two additional proposals, and will not schedule a technical conference ahead of time, as it did in Docket No. RM2008–2.

II. Substance of Postal Service Proposals

The Postal Service proposals, *see* Petition at 3 *et seq.*, are described below.

Proposal Ten. Proposed Change in Costing of Parcel Post Products.

Objective: Changes are proposed for the development of costs for products within the old Parcel Post subclass: market dominant product Parcel Post Single-Piece, and competitive products Parcel Select and Parcel Return Service (PRS).

Background: In FY2007, costs from the data systems were only available for the Parcel Post subclass as a whole. In the Annual Compliance Report, ACR2007, costs for the market-dominant product Parcel Post Single-Piece and competitive products Parcel Select and Parcel Return Service (PRS) were developed using methodologies previously accepted for the purposes of estimating cost differences deemed to be relevant to worksharing.[2] In other words, the estimates presented were primarily topdown. In the Annual Compliance Determination report, the Postal Regulatory Commission concluded that Parcel Return Service may have had an FY07 cost coverage of only 97.7 percent, which would have been insufficient to meet the requirements of the PAEA. The Commission acknowledged that the PRS FY07 cost coverage might have been higher if there were cost savings, such as reduced carrier costs, but noted that dispositive data on that issue were not provided.[3]

The Postal Service has taken the initiative to obtain data for the Parcel Post products directly from the cost data systems. The In-Office Cost System (IOCS) and Carrier Cost Systems (CCS) can identify each of the three products separately for all of FY08. The Transportation Cost System (TRACS) can separate Parcel Post Single-Piece from Bulk Parcel Post for all of FY08, but can only separate Parcel Select from PRS starting quarter 2 of FY08.

Proposal: For FY2008, we propose to develop mail processing and delivery costs for Parcel Post Single-Piece, Parcel Select and PRS using IOCS and CCS data. For transportation costs, we propose to use TRACS data to develop separate Parcel Post Single-Piece and Bulk Parcel Post, and to use the accepted methodology to split costs for Bulk Parcel Post into Parcel Select and PRS. These inputs would then be used in the CRA Model to develop a bottom-up cost estimate for each product (i.e., displaying each product as a separate row in the CRA).

Impact: The impact on costs will be unknown until the completion of the FY08 ACR. To the extent that the FY07 procedure implicitly focused only on cost differences deemed relevant for worksharing, and thus may have tended to overstate PRS costs, and to the extent that the proposed bottom-up FY08 procedures develop cost estimates intended to reflect all cost differences, and thus hopefully should neither overstate nor understate PRS costs, the new methodology perhaps may reduce PRS costs relative to the FY07 methodology.

Proposal Eleven: Proposed Change in Distribution Key for Volume-Variable Carrier Costs Relating to Blue Collection Boxes.

Objective: The purpose of this document is to propose a methodology change, for FY2008, in the manner in which cost segment 7 (city street activity) volume variable costs incurred by blue collection boxes are distributed to products.

Background: Cost Segment 7 blue collection box costs are incurred on both special purpose routes and letter routes. For special purpose routes, the accrued and volume variable costs are derived from the study of special purpose routes submitted in Docket No. R97–1. For letter routes, the accrued and volume variable costs are derived from the 2002 City Carrier Street Time Study (CCSTS), which was submitted in Docket No. R2005–1. In FY2007, the volume variable costs resulting from blue collection boxes were $46.7 million and $9.4 million from special purpose routes and letter routes, respectively. Currently, the same distribution factors are applied to attribute the volume variable costs from special purpose routes and letter routes to products. The existing factors are primarily derived from a special study submitted in Docket No. R84–1, but are adjusted annually based on current Revenue Pieces and Weight (RPW) data.

Proposal: The Postal Service is proposing to distribute the volume variable costs incurred by blue collection boxes to products based on updated distribution factors from current data collected on City Carrier Cost System (CCCS) tests.

Rationale: Collection mail volumes from customer delivery points have been captured by CCCS for several years. In FY2008, CCCS augmented the type of collection volume data recorded. On letter routes, CCCS now records, separately, the same information about blue collection box contents as it does for collection mail from customer delivery points. Utilizing updated distribution factors based on the current mail contents in blue boxes collected on letter routes signifies a methodology improvement for two reasons. First, the existing factors are largely derived from a study conducted approximately 25 years ago, whereas the new factors estimate the current mail contents of blue collection boxes. Second, the proposed approach would directly assign costs to Priority Mail, Express Mail, Free mail, USPS mail, and International mail based on the actual frequency of each within the sampled data from collection boxes, rather than the current two-step process of first assigning a fixed proportion of collection costs to ''Other'', and then further distributing the ''Other'' costs to those products based on RPW volume. The current process is described in detail at pages 6–7 of the copies of materials provided at the technical conference with Notice of the United States Postal Service Regarding Materials Distributed or Requested at the August 27, 2008 Technical Conference, Docket No. RM2008–2 (August 29, 2008).

Impact: A preliminary review of partial-year new distribution data indicates First Class Mail constituting a higher percentage (i.e., in excess of 99 percent) of mail in blue collection boxes, as compared with the study submitted in Docket No. R84–1. If this result holds, then First Class Mail will receive a higher percentage of volume variable costs incurred as a result of blue collection boxes than in previous years. In FY07, $53.8 million in volume variable costs from blue collection boxes was distributed to First Class Mail. Given that there was only $56.1 million in such costs to distribute to the products, the dollar impact on products due to this methodology proposal will be small. However, considering the numerous changes since 1984, such as a more complicated rate structure, Carrier Pickup, and rigid security regulations, the primary result of the preliminary review (i.e., that less than one percent of mail in the collection

[2] In Docket No. ACR2007, these estimates were presented in USPS–FT07–9 and USPS–FY07–15.

[3] Postal Regulatory Commission Annual Compliance Determination, FY 2007, p. 24.

boxes is other than First Class Mail) seems reasonable.

III. Ordering Paragraphs

It is Ordered:

1. The Petition of the United States Postal Service Requesting Initiation of a Proceeding to Consider Further Proposed Methodology Changes for the FY 2008 ACR (Proposals Ten and Eleven), filed September 12, 2008, is granted.

2. Interested persons may submit initial comments on or before September 26, 2008. The proposals described in this order will be considered under the current procedural schedule in Docket No. RM2008–2.

3. Reply comments may be submitted on or before October 3, 2008.

4. William C. Miller is designated as the Public Representative representing the interests of the general public in this proceeding.

5. The Secretary shall arrange for publication of this notice in the **Federal Register**.

Authority: 39 U.S.C. 3652.

By the Commission.

Steven W. Williams,

Secretary.

[FR Doc. E8–22639 Filed 9–24–08; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2008–0705; FRL–8720–5]

Approval and Promulgation of Implementation Plans; Nevada; Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under the Clean Air Act, EPA is proposing to approve certain revisions, and to disapprove certain other revisions, of the Nevada State Implementation Plan submitted by the Nevada Division of Environmental Protection. These revisions relate to the application of the State's vehicle inspection and maintenance program to vehicles operated on Federal installations. EPA is also proposing to correct certain plan revisions related to this subject that EPA previously approved in error. The intended effect is to ensure that vehicles operated on Federal installations are subject only to those requirements of the State's vehicle inspection and maintenance program that apply in the same manner and to the same extent to nongovernmental entities.

DATES: Any comments must arrive by October 27, 2008.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2008–0705, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov*. Follow the on-line instructions.
- *E-mail: kaplan.eleanor@epa.gov*.
- *Mail or deliver:* Eleanor Kaplan (AIR–2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or e-mail. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Eleanor Kaplan, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 947–4147, *kaplan.eleanor@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. Background

On January 7, 2008 (73 FR 1175), EPA proposed, under the Clean Air Act (CAA or ''Act''), to approve certain submittals by the Nevada Division of Environmental Protection (NDEP) of revisions to the Nevada state implementation plan (SIP). The submittals that were the subject of our January 7, 2008 proposed rule primarily relate to attainment and maintenance of the carbon monoxide (CO) national ambient air quality standard (NAAQS) in the Truckee Meadows nonattainment area. In our January 7, 2008 proposed rule, we also proposed to approve the State's submittal of an update to the regulatory element of the State's mobile source SIP, including statutory provisions and rules related to the State's vehicle inspection and maintenance (I/M) programs administered in Truckee Meadows (located within Washoe County) and Las Vegas Valley and Boulder City (located within Clark County).

As part of our January 7, 2008 proposed rule, we proposed to approve all of the State's vehicle I/M rules with the exception of a particular subsection (subsection (2)) of a single rule, Nevada Administrative Code (NAC) section 445B.595 (''Inspections of vehicles owned by State or political subdivisions or operated on federal installations'') (''NAC 445B.595(2)''), for which we proposed neither approval nor disapproval. We explained our ''no action'' proposal for NAC 445B.595(2) as follows:

> The Federal I/M rule requires that vehicles operated on Federal installations located within an I/M program area be tested regardless of whether the vehicles are registered in the state or local I/M area. See 40 CFR 51.356(a)(4). However, we are not requiring states to implement 40 CFR 51.356(a)(4) at this time. The Department of Justice has recommended to EPA that this Federal regulation be revised since it appears to grant states authority to regulate Federal installations in circumstances where the Federal government has not waived sovereign immunity. It would not be appropriate to require compliance with this regulation if it is not constitutionally authorized. EPA will be revising this provision in the future and will review state I/M SIPs with respect to this issue when this

new rule is final. Therefore, for these reasons, EPA is neither approving nor disapproving the specific requirements which apply to Federal facilities at this time. Specifically, we are taking no action on submitted rule NAC 445B.595(2), which extends the State's I/M requirements to motor vehicles operated on Federal installations located within I/M areas.

See 73 FR 1175, at 1182. See also 73 FR 1175, at 1176 and 1194 for summaries of our proposed action in this regard. The recommendation by the Department of Justice (DOJ) referred to in the above excerpt was made in a letter from Lois J. Schiffer, Assistant Attorney General, DOJ Environment and Natural Resources Division, to Scott Fulton, Acting General Counsel, EPA, dated July 29, 1998.

In our January 7, 2008 proposed rule, we also proposed, under CAA section 110(k)(6), to rescind our previous approval of an earlier codification of NAC 445B.595(2), once again, based on sovereign immunity concerns. We had approved the earlier codification of NAC 445B.595(2) in connection with our approval of the State's vehicle I/M program as administered in Las Vegas Valley and Boulder City. See 69 FR 56351, at 56354 (September 21, 2004).

Our January 7, 2008 proposed rule provided for a 30-day public comment period, and we received comments related to our proposal from NDEP concerned about our proposed error correction related to NAC 445B.595(2). On July 3, 2008, we took final action on all aspects of the January 7, 2008 proposed rule with the exception of our proposed action on NAC 445B.595(2) for which we agreed to reconsider action in a future proposed rule. See 73 FR 38124 (July 3, 2008). We have now reconsidered the issue of sovereign immunity in relation to the State's vehicle I/M program and propose, in today's action, to approve paragraphs (a), (b) and (c) of NAC 445B.595(2) (''NAC 445B.595(2)(a), (b), and (c)''), to disapprove paragraph (d) of NAC 445B.595(2) (''NAC 445B.595(2)(d)''), to rescind our previous approval of NAC 445B.595(2)(d) and our previous approvals of another State vehicle I/M requirement, NAC 445B.461(3)(d).

II. The State's SIP Revision Submittal

A. What revisions did the State submit?

On May 11, 2007, NDEP submitted, among other provisions, rules implementing the State's vehicle I/M program in Truckee Meadows and Las Vegas Valley/Boulder City. Among the rules are NAC 445B.461 (''Compliance by Federal Government, state agencies and political subdivisions'') and NAC 445B.595 (''Inspections of vehicles owned by State or political subdivisions or operated on federal installations''). NAC 445B.461 provides in relevant part:

1. A license may be issued to the Federal Government * * * to inspect motor vehicles * * * for the purpose of compliance with NAC 445B.400 to 445B.735, inclusive.

2. * * *.

3. The holder of a license issued pursuant to subsection 1 is exempt from the requirements set forth in the following sections for the limited purposes indicated: (a) Bond, NAC 445B.465; (b) Evidence of compliance, NAC 445B.583 to 445B.586, inclusive; (c) Sign, NAC 445B.469; and (d) Use of waiver, NAC 445B.590.

NAC 445B.595 provides in relevant part:

1. * * *.

2. Motor vehicles operated on federal installations located within an area requiring a program for the inspection of exhaust emissions must be inspected and certified annually. The provisions of this subsection:

(a) Apply to all motor vehicles which are owned, leased or operated by an employee of, or military personnel stationed at, a federal installation;

(b) Apply to all motor vehicles which are owned, leased or operated by any agency of the Federal Government on a federal installation;

(c) Do not apply to tactical military vehicles operated on a federal installation; and

(d) Do not apply to motor vehicles which are owned, leased or operated on a federal installation by visiting federal employees or military personnel when the visit does not exceed 60 days within any 1 calendar year. A federal installation shall annually submit to the Department evidence showing that it has complied with the provisions of this paragraph, in a form prescribed by the Department.

We approved NAC 445B.461 in 2004 in connection with our approval of the State's I/M program in Las Vegas Valley and Boulder City (see 69 FR 56351, at 56354 (September 21, 2004)), and again on July 3, 2008 in connection with our final approval of the State's update (submitted on May 11, 2007) to the regulatory element of the State's mobile source SIP, including the rules for the State's vehicle I/M program in Truckee Meadows and Las Vegas Valley/Boulder City. We also approved NAC 445B.595 in connection with our approval of the State's I/M program in Las Vegas Valley and Boulder City but, as noted above, proposed to rescind our previous approval of NAC 445B.595(2) in our January 7, 2008 proposed rule, and have as yet taken no action on NAC 445B.595(2) as submitted to us on May 11, 2007. The versions of NAC 445B.461 and NAC 445B.595 approved by us in 2004 and those submitted to us on May 11, 2007 are identical.

B. What is our evaluation of the revisions?

CAA section 118(a) requires that each agency and employee of the Federal government comply with all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of air pollution in the same manner, and to the same extent as any nongovernmental entity. In our evaluation of the State's I/M program as it relates to Federal installations, we also rely upon EPA's guidance document, ''Interim Guidance for Federal Facility Compliance with Clean Air Act Sections 118(c) and 118(d) and Applicable Provisions of State Vehicle Inspection and Maintenance Programs,'' Draft, December 1999.

Generally, the State of Nevada has made the State's mobile source rules, including many such rules related to the vehicle I/M program, applicable to Federal installations by including the Federal Government in the State's rule defining ''person'' for the purposes of the State's mobile source regulations. See NAC 445B.443.[1] With respect to specific testing, standards, and certification requirements, the State has made the vehicle I/M program applicable to the Federal Government through adoption of NAC 445B.595(2) (including paragraphs (a) through (d)), which is set forth above. Through NAC 445B.595(2), the same types of emission tests and the same emissions standards apply to the motor vehicles owned by the Federal Government as apply to motor vehicles owned by nongovernmental entities. Thus, with the exception of the two specific provisions discussed below, we find that the State's I/M program complies with CAA section 118(a) and must be complied with by Federal installations and employees. We therefore propose to approve NAC 4454B.595(2)(a), (b), and

[1] Under NAC 445B.443, ''Person'' includes the Federal Government, the State of Nevada, or any of its political subdivisions and any other administrative agency, public or quasi-public corporation, or other legal entity. NDEP and the Nevada Department of Motor Vehicles (DMV) interpret NAC 445B.443 in light of the ''basic'' definition of the term ''person'' as codified at NRS 0.039: ''Except as otherwise expressly provided in a particular statute or required by the context, ''person'' means a natural person, any form of business or social organization and any other nongovernmental legal entity including, but not limited to, a corporation, partnership, association, trust or unincorporated organization. The term does not include a government, governmental agency or political subdivision of a government.'' EPA approved NRS 0.039 into the Nevada SIP in 2006. See 71 FR 51766 (August 31, 2006). To clarify that NAC 445B.443 builds upon the ''basic'' definition of person, we understand that NDEP and Nevada DMV intend to amend NAC 445B.443 to include a specific reference to NRS 0.039.

(c), as submitted by NDEP on May 11, 2007.

Under the State's vehicle I/M program, there are only two significant requirements that apply to Federal installations and employees that do not also apply in the same manner, and to the same extent to nongovernmental entities. These requirements are found in NAC 445B.595(2)(d) and NAC 445B.461(3)(d). NAC 445B.595(2)(d) requires I/M testing and certification for non-resident Federal employees whose visits to Federal installations in I/M areas exceed 60 days. No such requirement under the State's vehicle I/M program applies to nonresident visitors who are not Federal employees. Likewise, NAC 445B.461(3)(d) disqualifies the Federal Government from eligibility for a waiver that nongovernmental entities, under the same circumstances, are eligible. Waivers are generally allowed under the I/M program for vehicles that cannot pass the emissions test but for which qualifying repairs costing over certain thresholds have been made. Both provisions discriminate against Federal installations or employees relative to the requirements for nongovernmental entities and thus are inconsistent with the limits on the waiver of sovereign immunity established in CAA section 118(a).

Therefore, we propose to approve NDEP's submittal on May 11, 2007 of NAC 445B.595(2)(a), (b), and (c) but to disapprove paragraph (d) of the same subsection. We recently approved NDEP's submittal on May 11, 2007 of NAC 445B.461 and address NAC 445B.461(3)(d) in the following section of this document.

III. Correction of Previously Approved Provisions

A. What provisions did we previously approve?

We approved NAC 445B.461, including NAC 445B.461(3)(d), and NAC 445B.595, including NAC 445B.595(2)(d), in connection with our 2004 approval of the State's vehicle I/M program in Las Vegas Valley and Boulder City. Moreover, we approved NAC 445B.461 again in our July 3, 2008 final rule.

B. What is our evaluation of the approved provisions?

Section 110(k)(6) of the Clean Air Act, as amended in 1990, provides, ''Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and the public.''

We interpret this provision to authorize the Agency to make corrections to a promulgated regulation when it is shown to our satisfaction that (1) we clearly erred in failing to consider or in inappropriately considering information made available to EPA at the time of the promulgation, or the information made available at the time of promulgation is subsequently demonstrated to have been clearly inadequate, and (2) other information persuasively supports a change in the regulation. See 57 FR 56762, at 56763 (November 30, 1992).

In this instance, we have found clear error in our 2004 approval of NAC 445B.461(3)(d) and NAC 445B.595(2)(d), and our subsequent 2008 approval of NAC 445B.461(3)(d), as a part of the Nevada SIP because at the time of our 2004 and 2008 actions such discriminatory provisions were not authorized under CAA section 118(a). Moreover, since such provisions remain unauthorized under CAA section 118(a), we believe that an error correction action under CAA section 110(k)(6) under these circumstances is appropriate. Therefore, we propose to rescind our previous approvals of NAC 445B.461(3)(d) and NAC 445B.595(2)(d) since they would otherwise set forth additional requirements under the I/M program for Federal installations and employees that do not apply to nongovernmental entities and thus would be inconsistent with the limits of sovereign immunity established in CAA section 118(a).[2]

IV. Public Comment and Final Action

Under section 110(k)(3) of the Clean Air Act, we propose to approve NDEP's submittal on May 11, 2007 of NAC 445B.595(2)(a), (b), and (c) as consistent with all applicable CAA requirements but to disapprove NAC 445B.595(2)(d) as inconsistent with the limits on sovereign immunity established in CAA section 118(a). In addition, under CAA section 110(k)(6), we propose to rescind our previous approvals of NAC 445B.461(3)(d) and 445B.595(2)(d) since they would otherwise set forth additional requirements under the I/M program for Federal installations and employees that do not apply to nongovernmental entities and thus would be inconsistent with CAA section 118(a).

EPA is soliciting public comments on the issues discussed in this document and will accept comments for the next 30 days. These comments will be considered before taking final action.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would

[2] We have discussed this issue with NDEP and Nevada DMV, and on April 30, 2008, NDEP submitted a letter to EPA expressing its agreement that the subject provisions are not consistent with CAA section 118(a) and its support for EPA's proposal to remove the provisions from the Nevada SIP. See letter from Michael Elges, Chief, NDEP Bureau of Air Quality Planning, to Jeff Wehling, Office of Regional Counsel, EPA Region IX, dated April 30, 2008.

be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 15, 2008.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. E8–22557 Filed 9–24–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–1007]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1 percent annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents, and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before December 24, 2008.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community are available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1007, to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151, or (e-mail) *bill.blanton@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151 or (e-mail) *bill.blanton@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

Administrative Procedure Act Statement. This matter is not a rulemaking governed by the Administrative Procedure Act (APA), 5 U.S.C. 553. FEMA publishes flood elevation determinations for notice and comment; however, they are governed by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and do not fall under the APA.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

Executive Order 13132, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Mohave County, Arizona, and Incorporated Areas				
Williams Wash	Approximately 250 feet upstream of confluence Highland/Green Wash.	#2	+703	City of Bullhead City.
	Approximately 622 feet upstream of La Puerta Road	None	+1471	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Bullhead City

Maps are available for inspection at 1255 Marina Blvd, Bullhead City, AZ 86442.

Brown County, Illinois, and Incorporated Areas				
Illinois River	From the limit of flooding affecting community at river mile 71.3 in Pike County; 0.7 miles downstream of the Pike/Brown County Border at approximately State Hwy 104.	+447	+448	Unincorporated Areas of Brown County.
	To the Schuyler/Morgan County Border at river mile 83.8; approximately the mouth of the La Moine River.	+448	+450	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Unincorporated Areas of Brown County

Maps are available for inspection at Brown County Courthouse, 200 West Court Street, Mt. Sterling, IL 62353.

Anderson County, Kentucky, and Incorporated Areas				
Kentucky River	Anderson County and Franklin County corporate limits.	None	+509	Unincorporated Areas of Anderson County.
	Anderson County and Mercer County corporate limits.	None	+527	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Unincorporated Areas of Anderson County

Maps are available for inspection at 139 Main Street, Lawrenceburg, KY 40342.

Henderson County, Kentucky, and Incorporated Areas				
Canoe Creek	Just upstream US–41	None	+376	Unincorporated Areas of Henderson County, City of Henderson.
	At confluence with Elam Ditch	None	+383	
Elam Ditch	At confluence with Canoe Creek	None	+383	Unincorporated Areas of Henderson County.
	At Airline Road (KY–812)	None	+393	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Elam Ditch Tributary 1	At confluence with Elam Ditch	None	+384	Unincorporated Areas of Henderson County.
	Approximately 1250 feet downstream Toy Anthoston Road (KY–2677).	None	+395	
Elam Ditch Tributary 2	At confluence with Elam Ditch	None	+384	Unincorporated Areas of Henderson County.
	Just downstream Airline Road (KY–812)	None	+395	
Elam Ditch Tributary 3	At confluence with Elam Ditch	None	+384	Unincorporated Areas of Henderson County.
	Just downstream Toy Anthoston	None	+389	
Kimsey Lane Left Tributary	At confluence with North Fork Canoe Creek	+387	+388	Unincorporated Areas of Henderson County, City of Henderson.
	Approximately 750 feet upstream Van Wyk Road	+387	+388	
Kimsey Lane Right Tributary	At confluence with North Fork Canoe Creek	+387	+388	Unincorporated Areas of Henderson County, City of Henderson.
	At Kinsey Lane (KY–6112)	+387	+388	
Middle Canoe Creek	At confluence with Sellers Ditch	+379	+382	Unincorporated Areas of Henderson County, City of Henderson.
	At confluence with Elam Ditch	+380	+382	
North Fork Canoe Creek	At confluence with Canoe Creek	+378	+382	Unincorporated Areas of Henderson County, City of Henderson.
	At approximately 4000 feet upstream Kimsey Lane (KY–6112).	+387	+389	
Sellers Ditch	At confluence with Canoe Creek	+377	+376	Unincorporated Areas of Henderson County.
	Approximately 200 feet upstream Old Madison Road	+379	+382	
Tiger Ditch (Formerly Highway 812 Tributary).	At confluence with North Fork Canoe Creek	+379	+382	Unincorporated Areas of Henderson County, City of Henderson.
	Approximately 150 feet downstream Zion Road	None	+391	
Tiger Ditch Tributary 1	At confluence with Tiger Ditch (Formerly Highway 812 Tributary).	None	+385	Unincorporated Areas of Henderson County, City of Henderson.
	Just downstream Adams Lane	None	+390	
Upper Canoe Creek	At confluence with Sellers Ditch	+379	+382	Unincorporated Areas of Henderson County.
	Approximately 3800 feet upstream confluence with East Fork Canoe Creek.	+382	+385	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Henderson

Maps are available for inspection at 222 First Street, Henderson, KY 42419.

Unincorporated Areas of Henderson County

Maps are available for inspection at 20 North Main Street, Henderson, KY 42420.

Jackson County, Michigan, and Incorporated Areas

Grand River	Upstream side of High Street	None	+935	City of Jackson, Township of Leoni, Township of Napoleon, Township of Summit.
	Approximately 1,400 feet upstream of Porbert Road	+941	+942	
Grand River	Downstream side of Maple Grove Road	None	+909	Township of Rivas.
	Approximate 0.5 mile upstream of Maple Grove Road	None	+910	
North Branch Grand River	At confluence with Grand River	None	+935	Township of Leoni.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
	Downstream side of 5th Street	None	+936	
North Branch Kalamazoo River.	Approximately 0.6 mile upstream of N. Main Street	None	+988	Township of Concord.
	Approximately 1 mile upstream of N. Main Street	None	+988	
Vineyard Lake	Entire shoreline of Vineyard Lake	None	+970	Township of Norvell, Township of Columbia.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Jackson
Maps are available for inspection at 161 W Michigan Avenue, Jackson, MI 49201.

Township of Columbia
Maps are available for inspection at 8500 Jefferson Road, Brooklyn, MI 49230.

Township of Concord
Maps are available for inspection at 402 South Main Street, Concord, MI 49237.

Township of Leoni
Maps are available for inspection at 913 Fifth Street, Michigan Center, MI 49254.

Township of Napoleon
Maps are available for inspection at 6755 Brooklyn Road, Napoleon, MI 49261.

Township of Norvell
Maps are available for inspection at 106 E Commercial Street, Norvell, MI 49263.

Township of Rivas
Maps are available for inspection at 106 Main Street, Jackson, MI 49201.

Township of Summit
Maps are available for inspection at 2121 Ferguson Road, Jackson, MI 49201.

Missoula County, Montana, and Incorporated Areas

Clarks Fork	Approximately 50 feet upstream of Reserve Street	+3160	+3157	Unincorporated Areas of Missoula County, City of Missoula.
	Approximately 500 feet downstream of Russell Street	+3168	+3169	
La Valle Creek	Approximately 150 feet upstream of the Frenchtown Irrigation District Ditch.	None	+3075	Unincorporated Areas of Missoula County.
	Just upstream of Dechamps Bridge	None	+3081	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Missoula
Maps are available for inspection at 435 Ryman St, Missoula, MT 59802.

Unincorporated Areas of Missoula County
Maps are available for inspection at 435 Ryman St, Missoula, MT 59802.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: September 16, 2008.

Michael K. Buckley,

Acting Assistant Administrator, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E8–22523 Filed 9–24–08; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[PS Docket No. 07–114; DA 08–2129]

Wireless E911 Location Accuracy Requirements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission seeks comment on proposals in certain *ex parte* filings submitted by the Association of Public-Safety Communications Officials, International (APCO), the National Emergency Number Association (NENA), AT&T, Sprint Nextel Corporation, and Verizon Wireless regarding location accuracy requirements for wireless licensees subject to the Commission's rules that specify standards for wireless Enhanced 911 (E911) Phase II location accuracy and reliability.

DATES: Comments are due October 6, 2008 by 12 p.m. Reply Comments are due October 14, 2008 by 12 p.m.

ADDRESSES: All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via e-mail to *fcc@bcpiweb.com*. In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via e-mail to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

FOR FURTHER INFORMATION CONTACT: Thomas J. Beers, Chief, Policy Division, Public Safety and Homeland Security Bureau, at (202) 418–0952. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an e-mail to *PRA@fcc.gov* or contact Jerry Cowden at (202) 418–0447.

SUPPLEMENTARY INFORMATION: On November 20, 2007, the Commission released a Report and Order (*Location Accuracy Order*) requiring wireless licensees subject to section 20.18(h) of the Commission's rules, which specifies the standards for wireless Enhanced 911 (E911) Phase II location accuracy and reliability, to satisfy these standards at a geographical level defined by the coverage area of a Public Safety Answering Point (PSAP). On March 25, 2008, the United States Court of Appeals for the District of Columbia Circuit (Court) stayed the Location Accuracy Order.

On July 14, 2008, APCO and the National Emergency Number Association (NENA) filed an *ex parte* letter addressing handset-based and network-based location accuracy criteria, stating that they ''are now willing to accept compliance measurements at the county level'' rather than at the PSAP level, and that ''[p]ublic safety and wireless carriers are in current discussions on a number of other issues associated with E9–1–1.''

On July 31, 2008, the Commission filed with the Court a Motion for Voluntary Remand and Vacatur, which requested remand based on the proposals contained in the July 14 *ex parte* letter and ''[i]n light of the public safety community's support for revised rules.'' Following this filing with the Court, NENA, APCO, Verizon Wireless, Sprint Nextel Corporation, and AT&T submitted written *ex parte* letters with the Commission with proposed new wireless E911 rules. Taken together, these proposals reflect agreement among those parties for new E911 accuracy requirements for both handset-based and network-based technologies, in order to achieve E911 accuracy compliance at the county-level. The parties also offer plans to convene industry groups to address related E911 issues, and AT&T included a proposal reflecting agreement on carrier provision of confidence and uncertainty data to PSAPs. Copies of all relevant *ex parte* submissions are included in the Attachment to this document.

We therefore seek comment on the proposed changed accuracy requirements, including the benchmarks, limitations, and exclusions noted therein, for handset-based and network-based location technologies. We also invite views on the pledges to convene industry groups to explore related issues, and whether we should require the provision of confidence and uncertainty data. In sum, by this Public Notice, the Public Safety and Homeland Security Bureau seeks comment on all of these proposals as well as any alternative modifications to location accuracy requirements. The Bureau urges all interested parties to review the entirety of the above-referenced *ex parte* letters.

We also seek comment on the attached Initial Regulatory Flexibility Analysis in connection with the proposals described.

This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 CFR 0.191, 0.392.

This abbreviated comment cycle is appropriate given the compelling public interest in achieving accurate and reliable E911 location information.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/cgb/ecfs/*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of the proceeding, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking numbers. All filings concerning this Public Notice should refer to PS Docket No. 07–114. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Paper filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). Parties are strongly encouraged to

file comments electronically using the Commission's ECFS.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

—The filing hours at this location are 8 a.m. to 7 p.m.
—All hand deliveries must be held together with rubber bands or fasteners.
—Any envelopes must be disposed of before entering the building.
—Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
—U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via e-mail to *fcc@bcpiweb.com*.

Documents in PS Docket No. 07–114 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St., SW., Room CY–A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, e-mail *fcc@bcpiweb.com*.

To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required. Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules.

This document contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact of the proposal described in the attached Public Notice on small entities. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments in the Public Notice. The Commission will send a copy of the Public Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

2. The Public Notice seeks comments broadly on a proposal recently submitted by APCO, NENA, AT&T, Sprint Nextel Corporation, and Verizon Wireless, and on any other alternative approaches, to best ensure that public safety answering points (PSAPs) receive location information that is as accurate as possible for all wireless E911 calls. APCO, NENA, AT&T, Sprint Nextel Corporation, and Verizon Wireless propose requiring measurement of location accuracy compliance at the county level rather than PSAP level; certain modifications to the Phase II location accuracy requirements set forth in 47 CFR 20.18(h); provision for testing to establish baseline confidence and uncertainty levels in a county; and stakeholder-based consultation to explore such E911-related issues as possible approaches for assessing wireless 911 location accuracy for calls originating indoors; updated outdoor and indoor accuracy measurement methodologies, testing of emerging technology claims; E911 responsibilities in an open-access environment, and the development of hybrid network aGPS technologies.

B. Legal Basis

3. The legal basis for any action that may be taken pursuant to this Public Notice is contained in Sections 4(i) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 332.

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

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

5. Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data. A ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

1. Telecommunications Service Entities

a. Wireless Telecommunications Service Providers

6. Pursuant to 47 CFR 20.18(a), the Commission's 911 Service requirements are only applicable to Commercial Mobile Radio Service (CMRS) ''[providers], excluding mobile satellite service operators, to the extent that they: (1) Offer real-time, two way switched

voice service that is interconnected with the public switched network; and (2) Utilize an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. These requirements are applicable to entities that offer voice service to consumers by purchasing airtime or capacity at wholesale rates from CMRS licensees.''

7. Below, for those services subject to auctions, we note that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

8. *Cellular Licensees.* The SBA has developed a small business size standard for wireless firms within the broad economic census category ''Cellular and Other Wireless Telecommunications.'' Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this category and size standard, the great majority of firms can be considered small. Also, according to Commission data, 437 carriers reported that they were engaged in the provision of cellular service, Personal Communications Service (PCS), or Specialized Mobile Radio (SMR) Telephony services, which are placed together in the data. We have estimated that 260 of these are small, under the SBA small business size standard.

9. *Common Carrier Paging.* The SBA has developed a small business size standard for wireless firms within the broad economic census category, ''Cellular and Other Wireless Telecommunications.'' Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. In the Paging *Third Report and Order*, we developed a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these small business size standards. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. Also, according to Commission data, 375 carriers reported that they were engaged in the provision of paging and messaging services. Of those, we estimate that 370 are small, under the SBA-approved small business size standard.

10. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services (PCS), and specialized mobile radio (SMR) telephony carriers. As noted earlier, the SBA has developed a small business size standard for ''Cellular and Other Wireless Telecommunications'' services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 445 carriers reported that they were engaged in the provision of wireless telephony. We have estimated that 245 of these are small under the SBA small business size standard.

11. *Broadband Personal Communications Service.* The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.'' These standards defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses, within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses. There were 48 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as ''small'' or ''very small'' businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

12. *Narrowband Personal Communications Services.* To date, two auctions of narrowband personal communications services (PCS) licenses have been conducted. For purposes of the two auctions that have already been held, ''small businesses'' were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order*. A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards. In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas (MTAs) and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined. The Commission assumes, for purposes of this analysis that a large portion of the remaining narrowband

PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

13. *Rural Radiotelephone Service.* The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System (BETRS). The Commission uses the SBA's small business size standard applicable to ''Cellular and Other Wireless Telecommunications,'' *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

14. *Air-Ground Radiotelephone Service.* The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service. We will use SBA's small business size standard applicable to ''Cellular and Other Wireless Telecommunications,'' *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA small business size standard.

15. *Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. We are unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for ''Cellular and Other Wireless Telecommunications'' services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees.

b. International Service Providers

16. The Commission has not developed a small business size standard specifically for providers of international service. The appropriate size standards under SBA rules are for the two broad census categories of ''Satellite Telecommunications'' and ''Other Telecommunications.'' Under both categories, such a business is small if it has $13.5 million or less in average annual receipts.

17. The first category of Satellite Telecommunications ''comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' For this category, Census Bureau data for 2002 show that there were a total of 371 firms that operated for the entire year. Of this total, 307 firms had annual receipts of under $10 million, and 26 firms had receipts of $10 million to $24,999,999. Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

18. The second category of Other Telecommunications ''comprises establishments primarily engaged in (1) providing specialized telecommunications applications, such as satellite tracking, communications telemetry, and radar station operations; or (2) providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems.'' For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year. Of this total, 303 firms had annual receipts of under $10 million and 15 firms had annual receipts of $10 million to $24,999,999. Consequently, we estimate that the majority of Other Telecommunications firms are small entities that might be affected by our action.

c. Equipment Manufacturers

19. *Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year. Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

20. *Semiconductor and Related Device Manufacturing.* These establishments manufacture ''computer storage devices that allow the storage and retrieval of data from a phase change, magnetic, optical, or magnetic/optical media.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data for 1997, there were 1,082 establishments in this category that operated for the entire year. Of these, 987 had employment of under 500, and 52 establishments had employment of 500 to 999.

21. *Computer Storage Device Manufacturing.* These establishments manufacture ''computer storage devices that allow the storage and retrieval of data from a phase change, magnetic, optical, or magnetic/optical media.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data for 1997, there were 209 establishments in this category that operated for the entire year. Of these, 197 had employment of under 500, and eight establishments had employment of 500 to 999.

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

22. The Public Notice seeks comment broadly on APCO, NENA, AT&T, Sprint Nextel Corporation, and Verizon Wireless' proposals, and on any other alternative approaches, to best ensure that public safety answering points (PSAPs) receive location information that is as accurate as possible for all wireless E911 calls. APCO, NENA, AT&T, Sprint Nextel Corporation, and Verizon Wireless propose requiring measurement of location accuracy compliance at the county level rather than PSAP level; certain modifications to the compliance levels set forth in rules section 20.18(h).

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

23. The RFA requires an agency to describe any significant, specifically

small business alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for small entities.''

24. The Public Notice seeks comment on the relative merits of APCO, NENA, AT&T, Sprint Nextel Corporation, and Verizon Wireless' proposals. To assist in the analysis, commenters are requested to provide information regarding how small entities would be affected if the Commission were to adopt APCO, NENA, AT&T, Sprint Nextel Corporation, and Verizon Wireless' proposals, or any alternative proposals offered by other commenters. Commenters should also provide information on alternative approaches to alleviate any potential burdens on small entities.

Federal Communications Commission.

Thomas J. Beers,

Division Chief, Policy Public Safety and Homeland Security Bureau.

BILLING CODE 6712–01–P

ATTACHMENT

ASSOCIATION OF PUBLIC-SAFETY COMMUNICATIONS OFFICIALS-INTERNATIONAL
NATIONAL EMERGENCY NUMBER ASSOCIATION

July 14, 2008

Chief Derek Poarch
Public Safety and Homeland Security Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20552

Re: PS Docket 07-114 and CC Docket 94-120

Dear Chief Poarch:

The Association of Public-Safety Communications Officials, International (APCO) and the National Emergency Number Association (NENA) thank you and your colleagues for continued leadership on public safety matters, specifically wireless E9-1-1. Today, we submit this letter to report to you the work that has been ongoing since the FCC released its Order addressing the location of individuals placing 9-1-1 calls from their wireless devices.

We have previously advocated that wireless E9-1-1 accuracy should be measured at the PSAP level. We are now willing to accept compliance measurements at the county level. In part, this reflects the changes that are occurring in the PSAP community, as some communities are consolidating 9-1-1 centers, and others are changing PSAP geographic boundaries to match county boundaries. Counties, unlike PSAP service areas, also reflect a stable geographic area and would be a more appropriate regulatory criteria.

The FCC should maintain the current Phase II E9-1-1 metrics for 67% of calls, location accuracy within 50 meters for handset location solutions and 100 meters for network location solutions. However, both APCO and NENA agree that it may be appropriate to make adjustments to the current requirement that 95% of wireless E-9-1-1 Phase II calls be accurate within 150 meters for handset location solutions and 300 meters for network location solutions. We recognize that satisfying this requirement at a PSAP or county level is especially difficult for many carriers due to variations in geography and system deployments. Thus, the Commission may want to consider either reducing the percentage of 9-1-1 calls from 95% or increasing the 150/300 meter metrics.

We also recognize that it may not be technically feasible for carriers to meet the modified location accuracy requirements in every county. Therefore, the FCC should establish a waiver process with clear guidelines and procedures. For such waivers, the Commission should identify factors for consideration such as technical limitations, whether the carrier is meeting network optimization criteria and whether it is maintaining state-of-the-art capabilities for its chosen location technology. In the event that a carrier seeking a waiver proposes to select a different location technology, the Commission should consider whether there is a clearly defined plan to improve location accuracy.

Public safety and wireless carriers are in current discussions on a number of other issues associated with E9-1-1, with the goal of improving information available to PSAPs. There are areas of agreement in concept; however, the details are still being developed. These include:

- **Providing more uniform uncertainty values through a standard confidence factor:** The goal is to provide PSAPs with the most accurate and highest quality E9-1-1 location information possible with existing positioning equipment, while providing consistent interpretation of the results from diverse carriers and technologies. A wireless carrier's uncertainty estimates under this proposal will therefore provide a real-time, per call estimate of the 9-1-1 caller's location, and the uncertainty estimate associated with each Phase II E9-1-1 call should be viewed with roughly the same "confidence", regardless of carrier.

- **Indoor testing:** A working group of public safety and wireless carriers, vendors and other experts should be established to develop the specifics of indoor testing.

- **Next Generation Issues:** A working group of public safety and wireless carriers and others as needed should be established to examine advances in both wireless services and PSAP call centers, with the goal of ensuring that advances in wireless and location technologies have the corresponding capability to transmit voice and data services in a usable format for PSAPs. Examples include: femtocell or access point technologies, next generation GPS satellite technology, IP platforms and PSAP access for the delivery of voice, video and data location information.

Public safety and wireless carriers continue to meet to address these issues. The key point of this letter to put on record our opinion that in light of the changes occurring both in the PSAP and wireless communities, E9-1-1 location accuracy should be determined at the county level. We are hopeful that in the very near future we, perhaps in concert with the wireless industry, can provide you with greater details on assessing wireless carrier compliance at the county level as well as more details on the concepts mentioned above.

Again, thank you for your commitment to public safety and the importance of E9-1-1.

Respectfully,

Willis Carter, President
APCO International

Ronald Boneau, President
NENA

August 20, 2008

The Honorable Kevin Martin
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: PS Docket 07-114

Dear Chairman Martin:

The Association of Public-Safety Communications Officials, International (APCO), the National Emergency Numbering Association (NENA), and Verizon Wireless submit this letter to propose improved compliance measurements for the Commission's wireless E911 location accuracy rules governing handset-based technologies. APCO, NENA and Verizon Wireless have worked together to develop technologically feasible compliance measurements that improve the ability of providers to locate customers making calls to 9-1-1 from wireless phones.

This letter outlines these proposed compliance measurements for handset-based technologies, and the undersigned parties agree that any location accuracy rules that the Commission adopts for carriers that employ handset-based solutions should be limited to the measures set out here. As referenced in APCO and NENA's July 14, 2008 letter to Chief Derek Poarch, these proposed rules would measure wireless 9-1-1 location accuracy at the county level. Furthermore, these proposed compliance measurements will ensure that over time the wireless industry will continue to improve accuracy levels as technology develops. These new rules would be as follows:

- Two years after the Commission adopts new rules, on a county-by-county basis, 67% of Phase II calls must be accurate to within 50 meters in all counties; 80% of Phase II calls must be accurate to within 150 meters in all counties, provided, however, that a carrier may exclude up to 15% of counties from the 150 meter requirement based upon heavy forestation that limits handset-based technology accuracy in those counties.

- Eight years after the Commission adopts new rules, on a county-by-county basis, 67% of Phase II calls must be accurate to within 50 meters in all counties; 90% of Phase II calls must be accurate to within 150 meters in all counties, provided, however, that a carrier may exclude up to 15% of counties from the 150 meter requirement based upon heavy forestation that limits handset-based technology accuracy in those counties.

In addition, Verizon Wireless, working with the wireless industry, APCO, and NENA, will continue good faith efforts to identify possible approaches for assessing wireless 9-1-1 location accuracy for calls originating indoors. Today, wireless calls are increasingly originating indoors and providers' ability to locate these 9-1-1 calls remains an important challenge. Accordingly, while indoor calls are a separate issue from the accuracy standards identified above, Verizon Wireless, APCO, and NENA agree to convene, within 180 days of the Commission's order, an industry group to evaluate methodologies for assessing wireless 9-1-1 location accuracy for calls originating indoors and report back to the Commission within one year.

Sincerely,

Brian Fontes	Robert M. Gurss	John T. Scott, III
CEO	Director, Legal & Gov't Affairs	VP & Deputy General Counsel
NENA	APCO	Verizon Wireless

cc: Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Jonathan Adelstein
Commissioner Deborah Taylor Tate
D. Gonzalez A. Goldberger
A. Giancarlo
W. Leighton
B. Gottlieb
R. Crittenden
D. Poarch

Sprint Nextel
2001 Edmund Halley Drive
Reston, VA 20191 Office:
(703) 433-3786 Fax:
(913) 523-9831

August 21, 2008

Via Electronic Submission

The Honorable Kevin Martin
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: ***Ex Parte Communication,*** **PS Docket 07-114**

Dear Chairman Martin:

On August 20, 2008, the Association of Public-Safety Communications Officials, International (APCO), the National Emergency Numbering Association (NENA), and Verizon Wireless filed a letter proposing improved compliance measurements for the Commission's wireless E911 location accuracy rules governing handset-based providers. As a handset-based carrier, Sprint Nextel Corporation ("Sprint") submits this letter in further support of that proposal.

The proposed accuracy standard meets the concerns of public safety while acknowledging the limitations of current technology. Although setting the accuracy standard at the county level will impose significant testing costs and require substantial time to complete, the accuracy standards articulated should be achievable. Sprint commends all those involved in the work required to produce this proposal and urges the Commission to adopt this compromise.

Pursuant to Section 1.1206 of the Commission's rules, this letter is being electronically filed. Please let me know if you have any questions regarding this filing.

Respectfully submitted,

/sJ Anna M. Gomez _____
Anna M. Gomez
Vice President, Federal and State Regulatory
Sprint Nextel Corporation

/s/Lawrence R. Krevor _____
Lawrence R. Krevor Vice
President, Spectrum Sprint
Nextel Corporation

letter to Chairman Martin *PS*
Docket, 07-114

cc: Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Jonathan Adelstein
Commissioner Deborah Taylor Tate
D. Gonzalez A. Goldberger
A. Giancarlo
W. Leighton
B. Gottlieb
R. Crittendon
D. Poarch

August 25, 2008

The Honorable Kevin Martin
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: PS Docket 07-114

Dear Chairman Martin:

The Association of Public-Safety Communications Officials, International (APCO), the National Emergency Number Association (NENA), and AT&T Mobility (AT&T) submit this letter to propose improved compliance measurements for the Commission's wireless E911 location accuracy rules governing network-based technologies. APCO, NENA and AT&T have worked together to develop technologically feasible compliance measurements that improve the ability of providers to locate customers making calls to 9-1-1 from wireless phones.

This letter outlines these proposed compliance measurements for carriers using network-based technologies. As referenced in APCO and NENA's July 14, 2008 letter to Chief Derek Poarch, these proposed rules would measure wireless 9-1-1 location accuracy at the county level, but the undersigned parties also recognize that it is not technically feasible for carriers to meet the current accuracy standard in all counties using location accuracy technology currently available. Accordingly, the undersigned parties agree that any location accuracy rules that the Commission adopts for carriers that employ network-based solutions must be limited to the metrics and schedules set out here. These proposed compliance measurements will ensure that over time the wireless industry will continue to improve accuracy levels as technology develops.

As network-based providers will be unable to meet the new proposed county-level accuracy standards in all areas relying solely upon current network-based technology solutions, carriers who employ network-based location solutions may be expected to deploy handset-based solutions as an overlay to existing network-based solutions in order to meet the more stringent county-level requirements set forth below. To encourage the improvements in location accuracy that may be achieved using both network and handset based solutions, this proposal provides that network-based carriers may elect to use a system of blended reporting for their accuracy measurements, as defined below. Carriers

also may elect to report accuracy in any county based solely on the handset-based accuracy standards. The specifics of the proposal are as follows:

Accuracy **Standards** for Network-Based Location Solution Carriers:

67%/100M: 67 percent of all calls, measured at the county level, shall be located within 100 meters in each county by the end of year 5, in accordance with the interim benchmarks below; and

90%/300M: 90 percent of all calls, measured at the county level, shall be located within 300 meters in 85 percent of all counties by the end of year 8, in accordance with the interim benchmarks below.

Applicability of Accuracy Standards: The county-level location accuracy standards will be applicable to those counties, on an individual basis, for which a network-based carrier has deployed Phase II in at least one cell site located within a county's boundary. Compliance with the 67 percent standard and compliance with the 90 percent standard in a given county shall be measured and reported independently (i.e. the list of compliant counties for the 67 percent standard may be different than for the 90 percent standard).

Blended Reporting: Accuracy data from both a network-based solution and a handset-based solution may be blended to meet the network-based standard. Such blending shall be based on weighting accuracy data in the ratio of aGPS handsets to non-aGPS handsets in the carrier's subscriber base. The weighting ratio shall be applied to the accuracy data from each solution and measured against the network-based standards.

Example **of blended reporting** at 60% **penetration** of aGPS devices in the network:

Metric	Network-based Average	Handset-based Average	Blended Result
67%/100M	120M	40M	72M
90%/300M	400M	100M	220M

The blended results are derived by combining 40% of the network-based average with 60% of the handset-based average to produce a blended average for the county.

Network-Based Solution Compliance Benchmarks

67%/100M NETWORK-BASED ACCURACY STANDARD

End of Year 1[1]: Carriers shall comply in 60%) of counties, which counties shall cover at least 70% of the POPs covered by the carrier, network-wide. Compliance will be measured on a per county basis using existing network-based accuracy data.

[1] Benchmark intervals such as "Year 1" are to be measured from the effective date of any order adopting these proposed new location accuracy rules.

End of Year 3: Carriers shall comply in 70% of counties, which counties shall cover at least 80% of the POPs covered by the carrier, network-wide. Compliance will be measured on a per county basis, using, at the carrier's election, either: (i) network-based accuracy data; or (ii) blended reporting.

End of Year 5: Carriers shall comply in 100% of counties. Compliance will be measured on a per county basis, using, at the carrier's election, either: (i) network-based accuracy data; (ii) blended reporting; or (iii) subject to the following caveat, solely handset-based accuracy data (at handset-based accuracy standards).

A carrier may rely solely on handset-based accuracy data in any county if at least 95%o of its subscribers, network-wide, use an aGPS handset, or if it offers subscribers in that county who do not have an aGPS device an aGPS handset at no cost to the subscriber.

90%/300M NETWORK-BASED ACCURACY STANDARD

End of Year 3: Carriers shall comply in 60% of counties, which counties shall cover at least 70%) of the POPs covered by the carrier, network-wide. Compliance will be measured on a per county basis using, at the carrier's election, either: (i) network-based accuracy data; or (ii) blended reporting.

End of Year 5: Carriers shall comply in 70%) of counties, which counties shall cover at least 80%o of the POPs covered by the carrier, network-wide. Compliance will be measured on a per county basis using, at the carrier's election, either: (i) network-based accuracy data; or (ii) blended reporting.

End of Year 8: Carriers shall comply in 85%. of counties. Compliance will be measured on a per county basis using, at the carrier's election, either: (i) network-based accuracy data; (ii) blended reporting; or (iii) subject to the caveat above, solely handset-based accuracy data (at handset-based accuracy standards).

ETAG: An ETAG (E911 Technical Advisory Group) shall be established to work with the E911 community to address open issues within this framework (e.g., updated outdoor and indoor accuracy measurement methodologies, tactics for improving accuracy performance in challenged areas, testing of emerging technology claims, E911 responsibilities in an open-access environment, the development of hybrid network-AGPS technologies, etc.).

Confidence and Uncertainty: Confidence and uncertainty data shall be provided on a per call basis upon PSAP request. This requirement shall begin at the end of Year 2, to allow testing to establish baseline confidence and uncertainty levels at the county level. Once a carrier has established baseline confidence and uncertainty levels in a county, ongoing accuracy shall be monitored based on the trending of uncertainty data and additional testing shall not be required.

Sincerely,

Brian Fontes	Robert M. Gurss	Robert W. Quinn, Jr.
CEO	Director, Legal & Gov't Affairs	SVP - Federal Regulatory
NENA	APCO	AT&T

cc: Commissioner Michael Copps

Commissioner Robert McDowell
Commissioner Jonathan Adelstein
Commissioner Deborah Taylor Tate
D. Gonzalez
A. Goldberger
A. Giancarlo
W. Leighton
B. Gottlieb
R. Crittenden
D. Poarch

Joan Marsh
Vice President -
Federal Regulatory

AT&T Services, Inc. 1120 20th Street, N.W. Suite 1000 Washington, D.C. 20036

202.457.3120 Phone 832.213.0172 1-ax
ioanmaricmarsh-Yi-aU.qmi

September 5, 2008

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **In the Matter of Wireless E911 Location Accuracy Requirements (PS Docket No. 07-114; CC Docket No. 94-102)**

Dear Mr. Dortch,

On August 25, 2008, AT&T filed a joint letter with APCO and NENA to outline a proposal for improved compliance measurements for the Commission's wireless E911 location accuracy rules governing network-based technologies. This letter supplements that filing with additional detail on the location accuracy challenges inherent in a network-based technology solution and how those challenges can be met through the deployment of assisted global positioning system ("aGPS") devices.

Achieving meaningful network-wide accuracy performance improvements in any existing network-based E911 location system is a significant challenge, due largely to the following three factors:

- Variations in cell site density,
- Impact of local topography on RF propagation, and
- Existing network designs.

Looking first at cell site density, the accuracy performance of a network-based E911 solution generally improves as the number of cell sites in the targeted area increases. This fact — a fundamental premise of all network-based E911 solutions — stems from the ability of the location technology to obtain more location measurements (time based measurements for UTDOA) from different location measurement units deployed at individual cell sites that "see" the uplink signals from the 911-calling handset. While a network-based solution is often referred to as being based on "triangulation," individual locates within 300m of a 911 caller's actual location are often based on data from as many as ten or more cell sites. Accordingly, network-based E911 location performance will generally be more accurate in urban and suburban areas, with

their higher cell site density, than the same system operating in a rural district, where there are fewer cell sites needed for commercial service due to lower call volumes.

Local topography also plays in important role in accuracy measurements. Local terrain features — both natural (e.g., mountains, dense forestation, lakes, valleys) and manmade (e.g., buildings, etc.) - degrade network-based E911 accuracy performance by reducing the number of cell sites that can generate location data. For example, due to topographically-induced variations in RF propagation, a network-based E911 location technology used in a flat rural or suburban area will generally outperform the same location system used in a mountainous area, even where the cell site density in the two areas is similar.

Finally, network design also impacts E911 location accuracy. A carrier has to consider many factors when making decisions about the number of cell sites deployed in any given service territory, which are based on current and future caller usage patterns, local zoning restrictions, local community acceptance, and economics. The resulting number and pattern of deployed cell sites will directly affect E911 accuracy performance for network-based systems. Examples of specific circumstances that present challenges include:

- A so-called "string of pearls" deployment along a desert or rural freeway, in which cell sites are built only in the freeway's immediate vicinity so as to serve travelers along that highway,
- A "coverage island", where a carrier builds coverage to serve a particular location (e.g., ski area, etc.) but does not initiate service elsewhere, and
- "Border areas" created along the RF boundaries of existing service areas.

In addition, location accuracy is affected by the position of the cell sites and their attendant location measurement units in relation to each other. If the geometric spacing is optimal, then a minimum of three sites can be used to triangulate for a good location estimate. If the geometric spacing is poor, then significantly more cell sites are necessary to get a good location estimate. Unfortunately, local zoning restrictions often limit the ability for carriers to deploy cell sites in an optimal geometric spacing.

Each of these situations present accuracy challenges to a network-based E911 solution. In some areas, one or more of these factors render the achievement of the current network-based location standards infeasible at the county level. In many instances, these challenges can be mitigated or overcome through the deployment of aGPS technology. Accordingly, using both network-based and handset-based E911 technologies in concert will allow all carriers over time to significantly improve E911 accuracy performance across the majority of service areas.

An aGPS-equipped handset is very much like a stand-alone global positioning device that measures the signals from satellites to calculate locations using triangulation techniques. However, unlike a stand-alone GPS receiver, the aGPS handset also receives assistance data from the serving carrier's network, allowing it to calculate location

estimates much faster than a pure GPS device. Initial deployment of aGPS technology requires that both consumer handsets and network components be upgraded. Handsets must have a GPS chipset and antenna, along with the software necessary to receive location assistance data from the serving carrier's network. Components in the serving network must also be enhanced so as to facilitate the delivery of relevant location assistance data. However, once those handset and network improvements have been completed, aGPS technology will, in many environments, provide significantly-improved accuracy performance, so long as a sufficient number of GPS satellites can be received by the handset. Of course, due to line of sight obstructions, local topography can also prevent aGPS location systems from achieving current handset-based location accuracy standards in many counties.

The joint proposal submitted on August 25, 2008 by AT&T, APCO, and NENA recognizes the benefits and shortcomings of both network and handset E911 location technologies, and outlines an achievable path to materially-improved E911 accuracy for the nation's wireless users. First, by measuring E911 accuracy performance at the county level, public safety officials and carriers alike will be able to evaluate E911 system performance using an agreed-upon geographic standard. Next, revised accuracy standards for both network and handset solutions acknowledge that improving E911 system performance will be a significant challenge across many of the diverse RF environments found in carriers' service areas. The delivery of confidence and uncertainty data on a per-call basis will markedly improve 911 call takers' ability to assess the validity of each call's location information and deploy public safety resources accordingly.

In addition, the use of a "blended" E911 accuracy measurement standard will mean that more and more consumers will reap the benefits of both handset and network technologies as the proposed compliance period progresses. Over time, in areas where one E911 location technology has certain inherent weaknesses, the strengths of the other technology may be leveraged, thereby continuing to improve first responders' ability to locate those in need of emergency services. This overlay approach recognizes both the benefits of current E911 systems and the technology investments made over the past decade by wireless carriers, while acknowledging and advancing the important public interest in improved E911 location accuracy.

In accordance with Commission rules, this letter is being filed electronically with your office for inclusion in the public record.

Sincerely,

Joan Marsh

cc: Derek Poarch
Jeff Cohen

John T. Scott, III
Vice President &
Deputy General Counsel
Regulatory Law
Verizon Wireless

Veri70nwireless

1300 I Street, N.W. Suite
400 West Washington, DC
20005

Phone 202 589-3760
Fax 202 589-3750
john.scott@verizonwireless.com

September 5, 2008

Ex Parte

Marlene H. Dortch, Secretary Federal
Communications Commission 445
Twelfth Street, S.W. Washington, D.C.
20554

Re: Wireless E911 Location Accuracy Requirements, PS Docket No. 07-114

Dear Ms. Dortch:

On August 20, 2008, the Association of Public Safety Communications Officials, International (APCO), the National Emergency Numbering Association (NENA), and Verizon Wireless filed a letter with the Commission proposing improved compliance measurements for wireless providers using handset-based E911 technologies. This letter submits additional information in support of that proposal.

The proposal has five interrelated aspects: (1) new E911 accuracy standards that will be measured at the county level; (2) deadlines for achieving these standards; (3) an exception for a subset of counties that present technical challenges to location accuracy; (4) a commitment to work toward recommendations on indoor accuracy testing, and (5) agreement that the Commission should go no farther than adopting these new standards in amending its current E911 rules for handset-based technologies.

Verizon Wireless believes that the proposed accuracy standards, while rigorous, can be achieved within the time frames set forth in the proposal. In the company's experience, the greatest technical barrier to the accuracy of handset-based E911 technologies is the presence of terrain obstructions, whether natural or manmade. The "topology" (or terrain characteristics) of an area is critically important to accuracy because the precision of the location fix depends on the wireless handset's ability to "see" multiple Global Positioning System (GPS) satellites. In Verizon Wireless's hybrid Assisted GPS location system, four or more satellites are required for a precise GPS-

Verizon Wireless's system uses a "hybrid" technology known as "Assisted GPS", because it supplements GPS technology with network-based network triangulation technology. The network-based technology, however, does not provide accuracy to within the precise distance limits the Commission previously set for handset'based technology.

only location. When there are not enough satellites visible to the handset due to line of sight obstructions, then the location system relies on data from surrounding cell sites to supplement or completely replace satellite signals in calculating location measurements. When cell sites are used to supplement or substitute for satellite measurements, the handset must be able to "see" a minimum of three cell sites that are geometrically spaced in a manner that allows for triangulation, much like the network-based E911 solutions deployed by other carriers. Location measurements become less accurate as more reliance is placed on cell site triangulation.

Where, for example, an area's topology is characterized by forest, the likelihood of a good location fix is reduced because the tree cover obstructs the transmission path between the satellites and the handset. The more extensive the tree cover, the greater difficulty the system has in generating a GPS-based fix. Likewise, man-made as well as natural obstructions may also pose challenges for obtaining an accurate network-based fix because RF signals may be delayed or blocked altogether. In contrast, where an area is more open so that it is more likely that sufficient GPS satellites will be accessed by the handset, handset-based technologies provide highly accurate location fixes.

In short, while meeting E911 accuracy requirements at the county level is feasible in many counties, the parties to the proposal recognized that it is not technically feasible for carriers to meet the current accuracy standards in all counties using currently available technology. Any new E911 rule for handset-based systems must recognize these realities in order to be technically achievable.

The APCO-NENA-Verizon Wireless proposal incorporates these technical realities in two ways. First, in recognition that accuracy will now be tested and measured at an individual county level, it sets the percentage of Phase 2 E911 calls that must be accurate to within 50 meters at 67%, and the percentage of calls that must be accurate to within 150 meters at 80%, within two years from the effective date of the new rules. No more than six years later (that is, eight years after the rules' effective date), the percentage of Phase 2 calls that must be accurate to within 150 meters increases to 90%, thus raising over time the required accuracy of the system.

Second, the proposal allows the wireless provider to exclude up to 15% of counties served from the 150 meter accuracy standard based on heavy forestation, to reflect the fact that many counties are characterized by tree coverage that reduces the ability to obtain sufficient accuracy to establish compliance.

By excluding a small percentage of counties, as well as a small (and decreasing) percentage of calls from compliance, the proposal acknowledges that these exceptions are both necessary and appropriate in order to achieve the rigorous accuracy requirements that will apply to all other E911 Phase 2 calls.

The compliance periods set forth in the proposal serve two important purposes. The initial two-year period is necessary for Verizon Wireless to establish new protocols for county-level accuracy testing and to conduct that testing in order to verify compliance

with the new standards. The additional six-year period is needed for Verizon Wireless to work to achieve the more rigorous "90% of Phase 2 calls" accuracy standard. The company anticipates that during this time there are likely to be developments in the field of location technologies that may enable improvements in accuracy of handset-based technologies. This period will allow the company needed time to test and deploy new software or equipment using such technologies.

The APCO-NENA-Verizon Wireless proposal addresses Public Safety's desire for wireless E911 systems to demonstrate accuracy at an individual county level, while incorporating a limited but needed amount of flexibility for wireless carriers using handset-based technologies to meet the accuracy standards. The company believes that this proposal is feasible and achievable as long as it is adopted as a whole and without additional requirements. It thus encourages the Commission to consider it at such time as the Commission resumes its consideration of changes to its E911 accuracy rules.

Sincerely, John T.

Scott, III

cc: Derek Poarch, Chief, Public Safety and Homeland Security Bureau
Jeffrey Cohen, Public Safety and Homeland Security Bureau Brian
Fontes, NENA Robert Gurss, APCO

September 9, 2008

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: PS Docket 07-114 and CC Docket 94-102

Dear Ms. Dortch:

The Association of Public-Safety Communications Officials-International ("APCO") and the National Emergency Number Association "(NENA") wish to take this opportunity to address the recent letters from Verizon Wireless and AT&T Mobility regarding their proposals for revisions to the E9-1-1 wireless location accuracy rules, as set forth in our prior joint letters with each company.

APCO and NENA agree that these proposals will promote the public interest and should be adopted by the Commission. Significantly, Verizon and AT&T have both agreed that location accuracy should be measured at the county level. This represents a substantial improvement over the measurement areas currently used by carriers and the positions they had previously advocated. As we described in our letter of July 14, 2008, county-level accuracy would in many cases be identical to PSAP-level accuracy. Counties also are more easily defined than PSAPs and are not prone to administrative boundary changes.

The joint proposals, if adopted by the Commission, also could bring an end to years of distracting debates regarding the appropriate accuracy standards. All parties will then be able to focus attention on the important, critical task of implementing and improving wireless E9-1-1 capabilities.

We also believe that the specific standards identified in the letters present a sensible approach that will achieve improved accuracy in a reasonable time frame. Most importantly, the requirements for 67% of 9-1-1 calls (50/100 meters) will be met at the county level within two years for Verizon and five years for AT&T, consistent with the five-year benchmark that APCO and NENA had previously recommended and was adopted in the last FCC order. Also, we arc pleased that AT&T proposes to combine handset and network based technologies to provide improved accuracy across a variety of geographic settings.

The carriers have also agreed to provide confidence and uncertainty data on a per call basis upon receiving PSAP requests. This will greatly improve the ability of PSAPs to utilize accuracy data and manage their 9-1-1 calls. Finally, we look forward to working with the carriers to develop approaches for assessing indoor call accuracy, as wireless phones are increasingly being used to make 9-1-1 calls from inside homes and offices. Location accuracy is especially important in those settings where first responders may have difficulty locating the exact site of the emergency.

Please contact the undersigned should the Commission require any additional information.

Respectfully submitted,

/s/ Robert M.
Gurss
Director, Legal and Government Affairs
APCO International 1725 DeSalcs Street,
NW Suite 808 Washington, DC 20036

/s/ Brian Fontes Chief
Executive Officer NENA
4350 North Fairfax Drive
Suite 750 Arlington, VA
22203-1695

cc: Derek Poarch Jeff
Cohen John T.
Scott, III Joan
Marsh

[FR Doc. E8–22645 Filed 9–24–08; 8:45 am]
BILLING CODE 6712–01–C

Notices

Federal Register

Vol. 73, No. 187

Thursday, September 25, 2008

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

DEPARTMENT OF AGRICULTURE

Notice of Request for Emergency Approval of New Information Collection, Paper Reduction Act of 1995; Correction

AGENCY: Office of the Assistant Secretary for Civil Rights.

ACTION: Technical amendments to Notice.

SUMMARY: This document makes technical amendments to the Office of the Assistant Secretary for Civil Rights' notice seeking public comment on information collection activities under its USDA/1890 Programs.

DATES: *Effective Date:* September 25, 2008.

FOR FURTHER INFORMATION: Contact Carl Butler, USDA/1890 National Scholars Program Manager, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 3038, Mail Stop 9478, Washington, DC 20250 (202) 205–2641 (Fax number).

SUPPLEMENTARY INFORMATION: The Office of the Assistant Secretary for Civil Rights has reviewed its notice (73 FR 49642, August 22, 2008) seeking an extension of and public comment on information collection activities under its USDA/1890 Programs and makes clarifying technical amendments. The notice contained an error in the subject line, summary, and type of request. It also omitted the Office of Management and Budget (OMB) control number and comment closing date.

Technical Amendments

On page 49642, in the first column, the subject for the notice is revised to read as follows: ''Extension of Approved Information Collection, OMB Control Number 0503–0015''.

On page 49642, in the first column, the summary is revised to read as follows: ''In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of the Assistant Secretary for Civil Rights is requesting OMB to extend an existing approval to collect information for the USDA/1890 National Scholars Program.''

On page 49642, in the first column, in the ''**DATES**'' section, the comment period is inserted to read as follows: ''Comments on this notice must be received by October 21, 2008, to be assured of consideration.''

On page 49642, in the first column, in the ''**SUPPLEMENTARY INFORMATION**'' section, the type of request is revised to read as follows: ''Extension of an approved information collection''.

On page 49642, in the first column, in the ''**SUPPLEMENTARY INFORMATION**'' section, the OMB control number is inserted beneath the type of request to read as follows: ''OMB Number: 0503–0015''.

Arthur L. Neal,

Acting Director, USDA/1890 Program.

[FR Doc. E8–22573 Filed 9–24–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Time Limits for the Preliminary Results of the New Shipper Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 25, 2008.

FOR FURTHER INFORMATION CONTACT: Alan Ray, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5403.

SUPPLEMENTARY INFORMATION:

Background

On April 7, 2008, the Department published a notice of initiation of new shipper reviews of certain frozen fish fillets from the Socialist Republic of Vietnam covering the period August 1, 2007, through January 31, 2008. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Reviews, 73 FR 18753*, (April 7, 2008). The preliminary results are currently due no later than September 22, 2008.

Statutory Time Limits

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the ''Act''), provides that the Department will issue the preliminary results of a new shipper review of an antidumping duty order within 180 days after the day on which the review was initiated. *See* also 19 CFR 351.214 (i)(1). The Act further provides that the Department may extend that 180-day period to 300 days if it determines that the case is extraordinarily complicated. *See* 19 CFR 351.214 (i)(2).

Extension of Time Limit of Preliminary Results

The Department determines that these new shipper reviews involve extraordinarily complicated methodological issues such as the use of intermediate input methodology, the examination of importer information, and the evaluation of the *bona fide* nature of each company's sales. Therefore, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2), the Department is extending the time limit for these preliminary results by 120 days, until no later than January 20, 2009. The final results continue to be due 90 days after the publication of the preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B)(iv) and 777(i) of the Act.

Dated: September 19, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–22550 Filed 9–24–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Notice of Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Review: Stainless Steel Bar from India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') received a request for initiation of a changed circumstances review of the antidumping duty order on stainless steel bar (''SSB'') from India from India Steel Works Limited (''India Steel''). After reviewing this request, we preliminarily determine that India Steel is the successor–in-interest to Isibars Limited (''Isibars''), and as a result, should be accorded the same treatment previously accorded Isibars with regard to the antidumping duty order on SSB from India. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 25, 2008.

FOR FURTHER INFORMATION CONTACT: Cory Hervey or Devta Ohri, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1664 and (202) 482–3853, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1995, the Department of Commerce (''Department'') published in the **Federal Register** the antidumping duty order on SSB from India. *See Antidumping Duty Orders: Stainless Steel Bar form Brazil, India and Japan*, 60 FR 9661 (February 21, 1995). On August 4, 2008, India Steel requested that the Department initiate a changed circumstances review of this order to determine that, for purposes of the antidumping law, India Steel is the successor–in-interest to Isibars. *See* August 4, 2008, letter from India Steel.

Isibars was a producer and exporter of SSB from India. The last review that Isibars participated in covered the period February 1, 2005, through January 31, 2006. As a result of this review, Isibars received a cash deposit rate of 2.01 percent. *See Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 72 FR 51595 (September 10, 2007).

Scope of the Review

Imports covered by the order are shipments of SSB. SSB means articles of stainless steel in straight lengths that have been either hot–rolled, forged, turned, cold–drawn, cold–rolled or otherwise cold–finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold–finished SSBs that are turned or ground in straight lengths, whether produced from hot–rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi–finished products, cut–to-length flat–rolled products (*i.e.*, cut–to-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold–formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat–rolled products), and angles, shapes, and sections.

The SSB subject to these reviews is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

On May 23, 2005, the Department issued a final scope ruling that SSB manufactured in the United Arab Emirates out of stainless steel wire rod from India is not subject to the scope of this order. See Memorandum from Team to Barbara E. Tillman, ''Antidumping Duty Orders on Stainless Steel Bar from India and Stainless Steel Wire Rod from India: Final Scope Ruling,'' dated May 23, 2005, which is on file in the Central Records Unit in room 1117 of the main Department building. *See also Notice of Scope Rulings*, 70 FR 55110 (September 20, 2005).

Initiation and Preliminary Results of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.216, the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party for review of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. In this case, the Department finds that the evidence submitted showing that a name change took place, along with the additional supporting documentation concerning India Steel's management, production facilities, supplier relationships, and customer base (*see* August 4, 2008, letter from India Steel) provides sufficient evidence of changed circumstances to warrant a review. Thus, in accordance with section 751(b) of the Act, the Department is initiating a changed circumstances review to determine whether India Steel is the successor–in-interest to Isibars for purposes of determining antidumping duty liability with respect to imports of SSB from India.

Furthermore, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notice of initiation of a changed circumstances review and the notice of preliminary results in a single notice if the Department concludes that expedited action is warranted. As explained below, in this case, we find that the evidence provided by India Steel is sufficient to preliminarily determine that India Steel is a successor–in-interest to Isibars.

In making a successor–in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See, e.g., Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber From Japan, 67 FR 58 (January 2, 2002); Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460, 20462 (May 13, 1992). While no single factor or combination of factors will necessarily provide a dispositive indication of a successor–in-interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor. *See, e.g., Fresh and Chilled Atlantic Salmon from Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979 (March 1, 1999); I*ndustrial Phosphoric Acid from Israel; Final Results of Changed Circumstances Review*, 59 FR

6944 (February 14, 1994). Thus, if the record evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor. *See, e.g., Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

In accordance with 19 CFR 351.221(c)(3)(ii), we preliminarily determine that India Steel is the successor–in-interest to Isibars. In its August 4, 2008, submission, India Steel provided evidence supporting its claim to be the successor–in-interest to Isibars. The documentation attached to India Steel's August 4, 2008, submission shows that the change of corporate name from Isibars Limited to India Steel Works Limited resulted in little or no change in management, production facilities, supplier relationships, or customer base. This documentation consists of:

(1) the minutes of a September 29, 2007, General Meeting showing the name change was voted upon and approved unanimously;

(2) a certified copy of a ''Fresh Certificate of Incorporation Consequent upon Change of Name,'' dated October 22, 2007, issued by the Government of India, which shows the name change;

(3) a list of the stockholders and board of directors before and after the name change, showing that they are identical;

(4) an organizational chart before and after the name change showing India Steel has the same organization structure as Isibars;

(5) lists of suppliers and customers before and after the name change indicating that they are identical;

(6) samples of letters and e mails sent to customers announcing the name change;

(7) documentation demonstrating that India Steel has the same taxpayer identification number (called the ''permanent account number'' in India) as Isibars;

(8) a detailed description of the production facilities that existed before and after the name change indicating that India Steel has the same production facilities as Isibars;

(9) documentation demonstrating that India Steel maintains the same bank account as Isibars; and

(10) certificates of importer and exporter codes for Isibars and India Steel, issued by the Government of India, showing that the codes are identical before and after the name change.

In sum, India Steel has presented evidence to establish a prima facie case of its successorship status. Isibars's name change to India Steel has not changed the operations of the company in a meaningful way. India Steel's management, production facilities, supplier relationships, and customer base are substantially unchanged from those of Isibars. The record evidence demonstrates that the new entity essentially operates in the same manner as the predecessor company. Consequently, we preliminarily determine that India Steel should be assigned the same antidumping duty treatment as Isibars, *i.e.*, a 2.01 percent antidumping duty cash deposit rate. *See Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 72 FR 51595 (September 10, 2007).

The cash deposit determination from this changed circumstances review will apply to all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this changed circumstances review. *See Granular Polytetrafluoroethylene Resin from Italy; Final Results of Antidumping Duty Changed Circumstances Review*, 68 FR 25327 (May 12, 2003). This deposit rate shall remain in effect until publication of the final results of the next administrative review in which India Steel is reviewed.

Public Comment

Interested parties are invited to comment on these preliminary results. Written comments may be submitted no later than 14 days after the date of publication of these preliminary results. Rebuttals to written comments, limited to issues raised in such comments, may be filed no later than 21 days after the date of publication. The Department will issue the final results of this changed circumstances review, which will include the results of its analysis raised in any such written comments, no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary results. See 19 CFR 351.216(e).

This notice is published in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216, and 351.221.

Dated: September 18, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–22552 Filed 9–24–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–808]

Notice of Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Review: Stainless Steel Wire Rods from India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) received a request for initiation of a changed–circumstances review of the antidumping duty order on stainless steel wire rods (wire rods) from India from India Steel Works Limited (India Steel). After reviewing this request, we preliminarily determine that India Steel is the successor–in-interest to Isibars Limited (Isibars) and should therefore be accorded the same treatment previously accorded to Isibars with respect to the antidumping duty order on wire rods from India. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 25, 2008.

FOR FURTHER INFORMATION CONTACT: Edythe Artman or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3931 and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 1993, the Department published an antidumping duty order on wire rods from India. *See Antidumping Duty Order: Certain Stainless Steel Wire Rods from India*, 58 FR 63335 (December 1, 1993). On August 4, 2008, the Department received a request for a changed–circumstances review of this order from India Steel to determine if, for purposes of the antidumping law, India Steel is the successor–in-interest to Isibars.

Sales of wire rods from India produced by Isibars were last examined by the Department in the administrative review of the order covering the period December 1, 2002, through November 30, 2003. As a result of this review,

Isibars received a cash–deposit rate of 30.10 percent. *See Stainless Steel Wire Rod From India: Amended Final Results of Antidumping Duty Administrative Review*, 70 FR 47177 (August 12, 2005) (*Amended Final Results*).

Scope of the Review

The merchandise under review is wire rods, which are hot–rolled or hot–rolled annealed and/or pickled rounds, squares, octagons, hexagons or other shapes, in coils. Wire rods are made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are only manufactured by hot–rolling and are normally sold in coiled form, and are of solid cross section. The majority of wire rods sold in the United States are round in cross-section shape, annealed, and pickled. The most common size is 5.5 millimeters in diameter.

The wire rods subject to this order are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive of whether the merchandise is covered by the order.

Initiation and Preliminary Results of Changed–Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216, the Department will conduct a changed–circumstances review upon receipt of information concerning, or a request from an interested party for review of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. The Department finds that the documentation that India Steel submitted with its August 4, 2008, request constitutes sufficient evidence of changed circumstances to warrant such a review. Thus, in accordance with section 751(b) of the Act, the Department is initiating a changed–circumstances review to determine whether India Steel is the successor–in-interest to Isibars for purposes of determining antidumping duty liability with respect to imports of wire rods from India.

Furthermore, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notice of initiation of a changed–circumstances review and the notice of preliminary results for the review in a single notice if the Department concludes that expedited action is warranted. As explained below, we find that the evidence provided by India Steel is sufficient to preliminarily determine that this company is the successor–in-interest to Isibars.

In making a successor–in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See, e.g., Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber From Japan*, 67 FR 58 (January 2, 2002); *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460, 20461 (May 13, 1992). While no single factor or combination of factors will necessarily provide a dispositive indication of a successor–in-interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor. *See, e.g., Fresh and Chilled Atlantic Salmon from Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review, 64 FR 9979 (March 1, 1999) (Salmon from Norway); Industrial Phosphoric Acid from Israel; Final Results of Changed Circumstances Review*, 59 FR 6944, 6945 (February 14, 1994). Thus, if the record evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor. *See, e.g., Salmon from Norway*, 64 FR at 9980.

In accordance with 19 CFR 351.221, we preliminarily determine that India Steel is the successor–in-interest to Isisbars. In its August 4, 2008, submission, India Steel provided evidence supporting its claim to be the successor–in-interest to Isibars. Specifically, it provided the following documentation:

(1) the minutes of the September 29, 2007, annual general meeting of Isibars, showing that the name change was voted upon and approved unanimously;

(2) a certified copy of a ''Fresh Certificate of Incorporation Consequent upon Change of Name,'' dated October 22, 2007, and issued by the Indian Ministry of Corporate Affairs, which shows the name change;

(3) a list of the stockholders and board of directors before and after the name change, showing that they are identical;

(4) an organizational chart before and after the name change, showing that India Steel has the same organizational structure as Isibars;

(5) lists of suppliers and customers before and after the name change, indicating that they are identical;

(6) samples of letters and e–mails sent to customers announcing the name change;

(7) documentation demonstrating that India Steel has the same 'permanent account number', or taxpayer identification number, as Isibars;

(8) a detailed description of the production facilities that existed before and after the name change indicating that India Steel has the same production facilities as Isibars;

(9) documentation demonstrating that India Steel maintains the same bank account as Isibars; and

(10) certificates of importer and exporter codes for Isibars and India Steel, issued by the Government of India showing that the codes are identical before and after the name change.

In summary, India Steel has presented evidence to establish a prima facie case of its successorship status. Isibars's name change to India Steel has not changed the operations of the company in a meaningful way. India Steel's management, production facilities, supplier relationships, and customer base are substantially unchanged from those of Isibars. The record evidence demonstrates that the new entity essentially operates in the same manner as the predecessor company. Consequently, we preliminarily determine that India Steel should be assigned the same antidumping duty treatment as Isibars, *i.e.*, a 30.10 percent antidumping duty cash–deposit rate. *See Amended Final Results.*

The cash deposit determination from this changed–circumstances review will apply to all entries of the subject merchandise entered or withdrawn from warehouse for consumption on or after the date of publication of the final results of this changed–circumstances review. *See Granular Polytetrafluoroethylene Resin from Italy; Final Results of Antidumping Duty Changed Circumstances Review*, 68 FR 25327 (May 12, 2003). This deposit rate shall remain in effect until publication of the final results of the next administrative review in which India Steel is reviewed.

Public Comment

Interested parties are invited to comment on these preliminary results.

Written comments may be submitted no later than 14 days after the date of publication of these preliminary results. Rebuttals to written comments, limited to issues raised in such comments, may be filed no later than 21 days after the date of publication. The Department will issue the final results of this changed–circumstances review, which will include the results of its analysis raised in any such written comments, no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary results. *See* 19 CFR 351.216(e).

This notice is published in accordance with section 751(b)(1) and 777(i) of the Act and 19 CFR 351.216 and 351.221.

Dated: September 18, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–22551 Filed 9–24–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Solicitation of Applications for Allocation of Tariff Rate Quotas on the Imports of Certain Cotton Shirting Fabric to Persons Who Cut and Sew Men's and Boys' Cotton Shirts in the United States

AGENCY: Department of Commerce, International Trade Administration.

ACTION: The Department of Commerce (''Department'') is soliciting applications for an allocation of the 2009 tariff rate quotas on certain cotton woven fabric to persons who cut and sew men's and boys' cotton shirts in the United States.

SUMMARY: The Department hereby solicits applications from persons (including firms, corporations, or other legal entities) who cut and sew men's and boys' cotton shirts in the United States for an allocation of the 2009 tariff rate quotas on certain cotton woven fabric. Interested persons must submit an application on the form provided to the address listed below by October 27, 2008. The Department will cause to be published in the Federal Register its determination to allocate the 2009 tariff rate quotas, will notify applicants of their respective allocation, and will issue licenses to eligible applicants within 60 days of that date.

DATES: To be considered, applications must be received or postmarked by 5 p.m. on October 27, 2008.

ADDRESSES: Applications must be submitted to the Office of Textiles and Apparel, Room 3100, United States Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230 (telephone: (202) 482-3400). Application forms may be obtained from that office (via facsimile or mail) or from the following Internet address: *http://web.ita.doc.gov/tacgi/cottontrq.nsf/TRQApp.*

FOR FURTHER INFORMATION CONTACT: Laurie Mease, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Background

On December 9, 2006, President Bush signed into law the Tax Relief and Health Care Act of 2006 (HR 6406/HR 6111) (''the Act''). Section 406(b)(1) of the Act requires the Secretary of Commerce to fairly allocate tariff rate quotas on the import of certain cotton woven fabrics through December 31, 2009. Section 406 (b)(1) authorizes the Secretary of Commerce to issue licenses to eligible manufacturers under headings 9902.52.08 through 9902.52.19 of the Harmonized Tariff Schedule of the United States, specifying the restrictions under each such license on the quantity of cotton woven fabrics that may be entered each year on behalf of the manufacturer. The Act created an annual tariff rate quota providing for temporary reductions through December 31, 2009 in the import duties of cotton woven fabrics suitable for making cotton shirts (new Harmonized Tariff Schedule of the United States (''HTS'') headings 9902.52.08, 9902.52.09, 9902.52.10, 9902.52.11, 9902.52.12, 9902.52.13, 9902.52.14, 9902.52.15, 9902.52.16, 9902.52.17, 9902.52.18, and 9902.52.19). The reduction in duty is limited to 85 percent of the total square meter equivalents of all imported woven fabrics of cotton containing 85 percent or more by weight cotton used by manufacturers in cutting and sewing men's and boys' cotton shirts in the United States and purchased by such manufacturer during calendar year 2000.

The Act requires that the tariff rate quotas be allocated to persons (including firms, corporations, or other legal entities) who, during calendar year 2000, were manufacturers cutting and sewing men's and boys' cotton shirts in the United States from imported woven fabrics of cotton containing 85 percent or more by weight cotton of the kind described in HTS 9902.52.08 through 9902.52.19 purchased by such manufacturer during calendar year 2000. On July 10, 2008, the Department published a final rule establishing procedures for allocating the tariff rate quota. See Imports of Certain Cotton Shirting Fabric: Implementation of Tariff Rate Quota Established Under the Tax Relief and Health Care Act of 2006, 73 FR 39585 (July 10, 2008), 15 CFR 336. In order to be eligible for an allocation, an applicant must submit an application on the form provided at *http://web.ita.doc.gov/tacgi/cotton.nsf/TRQApp* to the address listed above by 5 p.m. on October 27, 2008 in compliance with the requirements of 15 CFR 336. Any business confidential information that is marked business confidential will be kept confidential and protected from disclosure to the full extent permitted by law.

Dated: September 22, 2008.

R. Matthew Priest,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. E8–22576 Filed 9–24–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Announcement of Padilla Bay National Estuarine Research Reserve Revised Management Plan

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Approval and Availability of the Final Revised Management Plan for the Padilla Bay National Estuarine Research Reserve.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce has approved the revised management plan for the Padilla Bay National Estuarine Research Reserve.

The Padilla Bay Reserve was designated in 1980 pursuant to Section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461. The reserve has been operating under a management plan approved in 1980. Pursuant to 15 CFR Section 921.33(c), a state must revise their management plan every five years. The submission of this plan brings the reserve into compliance with this

requirement and sets a course for successful implementation of the goals and objectives of the reserve.

The mission of the Padilla Bay Reserve is to provide leadership to promote informed management of estuarine and coastal habitats through scientific understanding and encourage good stewardship practices through partnerships, public education, and outreach programs. The management plan establishes three goals consistent with the Reserve's mission. These goals are (1) protect and improve habitat and biological diversity within the boundary of the Reserve, (2) increase the use of the Reserve and its research program to address priority coastal management issues of Washington State and (3) to support informed decision-making and responsible stewardship of coastal communities and ecosystems. Organized in a framework of programmatic goals and objectives, the Padilla Bay Reserve's management plan identifies specific strategies or actions for research, education/interpretation, public access, construction, land acquisition, and resource protection, restoration, and manipulation. Overall, the plan seeks to accomplish the mission of the Reserve by facilitating scientific research, encouraging stewardship, and addressing the local education and outreach needs.

Specifically, stewardship is encompassed under resource protection, habitat restoration, and resource conservation priorities. These priorities address reserve efforts to evaluate natural and anthropogenic processes that affect the reserve and its habitats, support for research and monitoring of important resources, restore and protect natural habitats and to actively educate the public to inform resource management.

Research and monitoring activities support independent research projects within the reserve and its vicinity with resources and background data. Staff and visiting researchers conduct monitoring and research within the boundaries of the reserve and Padilla Bay watershed and use GIS to map critical habitats. Research and monitoring results are made available to others and are translated to public and private users through education, training and outreach programs.

Education at the reserve targets a wide variety of audiences including students, teachers, adults, resource users and coastal decision-maker audiences. The reserve's comprehensive approach to education including a K–12 education program, outreach and a coastal training program are designed to increase knowledge of the target audiences about Pacific Northwest estuaries. Public access at the Padilla Bay Reserve includes trails, an observation deck and boat launches.

Administration at the reserve includes supporting the staffing and budget necessary to carry out the goals and objectives of the plan. The administration of the Padilla Bay Reserve is a collective effort involving the Washington State Department of Ecology (WDOE), other state or local agencies and organizations, a Reserve oversight and programmatic advisory committee for research, education, coastal training, and stewardship, and the Padilla Bay Foundation. An established administrative framework implements and coordinates Reserve programs under the plan.

FOR FURTHER INFORMATION CONTACT: Nina Garfield at (301) 563–1171 or Laurie McGilvray at (301) 563–1158 of NOAA's National Ocean Service, Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910.

Dated: September 17, 2008.

David M. Kennedy,

Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

[FR Doc. E8–22571 Filed 9–24–08; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Announcement of Sapelo Island National Estuarine Research Reserve Revised Management Plan

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Approval and Availability of the Final Revised Management Plan for the Sapelo Island National Estuarine Research Reserve.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce has approved the revised management plan for the Sapelo Island National Estuarine Research Reserve.

The Sapelo Island National Estuarine Research Reserve was designated as part of the National Estuarine Research Reserve System in 1976 pursuant to Section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461. The Reserve has been operating under a management plan approved in 1999. Pursuant to 15 CFR Section 921.33(c), a state must revise their management plan every five years. The submission of this plan brings the reserve into compliance and sets a course for successful implementation of the goals and objectives of the reserve. New facilities and updated programmatic objectives are notable revisions to the 1999 approved management plan.

The mission of the Sapelo Island Reserve is to perpetuate the protection of the Sapelo Island National Estuarine Research Reserve and to provide a platform for conservation-based research, education and stewardship through the Reserve. The revised management plan identifies priority resource issues that are addressed through active management. These priority issues include addressing public access and visitor impact on Reserve uplands and marsh areas, addressing impacts related to activities on the Reserve by the island's population and addressing the projected increase in development and population growth on the Georgia coast. By addressing these priority resource issues, the Sapelo Island Reserve aims to fulfill its mission.

The revised plan establishes goals and objectives for the Reserve's various programmatic activities, including scientific biological research; water quality monitoring; education, training, and outreach programs; and stewardship programs. It also outlines plans for future facility development to support reserve operations.

The reserve has realized some aspects of the 1999 plan, including contributions toward the completion of the Barrier Island Research and Learning Center, a joint research dormitory and lab shared with the University of Georgia.

FOR FURTHER INFORMATION CONTACT: Amy Clark at (301) 563–1137 or Laurie McGilvray at (301) 563–1158 of NOAA's National Ocean Service, Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910. For copies of the Sapelo Island National Estuarine Research Reserve Management Plan revision, visit: *http://www.sapelonerr.org/.*

Dated: September 15, 2008.

Donna Wieting,

Deputy Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

[FR Doc. E8–22570 Filed 9–25–08; 8:45 am]

BILLING CODE 3510–08–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Limitations of Duty- and Quota-Free Imports of Apparel Articles Assembled in Beneficiary ATPDEA Countries from Regional Country Fabric

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Publishing the New 12-Month Cap on Duty and Quota Free Benefits.

EFFECTIVE DATE: October 1, 2008.

FOR FURTHER INFORMATION CONTACT: Richard Stetson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 3103 of the Trade Act of 2002, P.L. 107-210; Title VII of the Tax Relief and Health Care Act of 2006 (TRHCA 2006), P.L. 109-432; H.R. 1830, 110th Cong. (2007) (H.R. 1830); Presidential Proclamation 7616 of October 31, 2002 (67 FR 67283, November 5, 2002).

Section 3103 of the Trade Act of 2002 amended the Andean Trade Preference Act (ATPA) to provide for duty and quota-free treatment for certain textile and apparel articles imported from designated Andean Trade Promotion and Drug Eradication Act (ATPDEA) beneficiary countries. Section 204(b)(3)(B)(iii) of the ATPA, as amended, provides duty- and quota-free treatment for certain apparel articles assembled in ATPDEA beneficiary countries from regional fabric and components. More specifically, this provision applies to apparel articles sewn or otherwise assembled in one or more ATPDEA beneficiary countries from fabrics or from fabric components formed or from components knit-to-shape, in one or more ATPDEA beneficiary countries, from yarns wholly formed in the United States or one or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 and 5603 of the Harmonized Tariff Schedule (HTS) and are formed in one or more ATPDEA beneficiary countries). Such apparel articles may also contain certain other eligible fabrics, fabric components, or components knit-to-shape.

The TRHCA of 2006 extended the expiration of the ATPA to June 30, 2007. See section 7002(a) of the TRHCA 2006. H.R. 1830 further extended the expiration of the ATPA to February 29, 2008. H.R. 5264 further extended the expiration of the ATPA to December 31, 2008.

For the period beginning on October 1, 2008 and extending through December 31, 2008, preferential tariff treatment is limited under the regional fabric provision to imports of qualifying apparel articles in an amount not to exceed 5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available. For the purpose of this notice, the 12-month period for which data are available is the 12-month period that ended July 31, 2008. In Presidential Proclamation 7616 (published in the Federal Register on November 5, 2002, 67 FR 67283), the President directed CITA to publish in the Federal Register the aggregate quantity of imports allowed during each period.

For the period beginning on October 1, 2008 and extending through December 31, 2008, the aggregate quantity of imports eligible for preferential treatment under the regional fabric provision is 1,222,785,719 square meters equivalent. Apparel articles entered in excess of this quantity will be subject to otherwise applicable tariffs.

This quantity is calculated using the aggregate square meter equivalents of all apparel articles imported into the United States, derived from the set of Harmonized System lines listed in the Annex to the World Trade Organization Agreement on Textiles and Clothing (ATC), and the conversion factors for units of measure into square meter equivalents used by the United States in implementing the ATC.

Dated: September 22, 2008.

R. Matthew Priest,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E8–22575 Filed 9–24–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Department of the Army

Preparation of an Environmental Impact Statement (EIS) for Army Growth and Force Structure Realignment at Fort Bliss, Texas and New Mexico

AGENCY: Department of the Army, DoD.

ACTION: Notice of Intent (NOI).

SUMMARY: This announces the intention of the U.S. Army to prepare an EIS analyzing the impacts of Army Growth and Force Structure Realignment at Fort Bliss. The Fort Bliss Army Growth EIS will tier from the Final Programmatic EIS for Army Growth and Force Structure Realignment, for which a Record of Decision (ROD) was signed in December 2007. That ROD directed stationing of two Infantry Brigade Combat Teams (IBCTs) at Fort Bliss, and the stationing of Heavy Brigade Combat Teams (HBCTs) (returning from Germany) at Fort Bliss and White Sands Missile Range (WSMR). Army BCTs consist of approximately 3,500–4,000 soldiers. The HBCT at WSMR will leverage training infrastructure and range modernization that has taken place at Fort Bliss. These actions are scheduled over the next five years.

ADDRESSES: Written comments should be forwarded to: Mr. Walter J. Christensen, Attention: FB GTA EIS; IMWE–BLS–PWE; Fort Bliss, TX 79916 6812; or faxed to (915) 568–3548.

FOR FURTHER INFORMATION CONTACT: Jean Offutt, Fort Bliss Public Affairs Office; IMWE–BLS–PA; Fort Bliss, Texas, 79916–6812; phone: (915) 568–4505.

SUPPLEMENTARY INFORMATION: Actions proposed to be taken at Fort Bliss in support of Army growth have the potential to significantly impact the natural and human environment in and around Fort Bliss as a result of facility construction and new and different uses of the Fort Bliss Training Complex (FBTC). The study area for the environmental analysis will be the Fort Bliss installation and surrounding communities. The objective of this analysis is to provide a comprehensive EIS that will serve as a planning tool and public information source. Several categories of alternatives will be considered:

(1) *Stationing/Training:* Known and reasonably foreseeable stationing and training actions will be analyzed. This includes additional units and use of any element of the Army's equipment inventory (e.g., Stryker).

(2) *Land Use:* Various land use changes in support of the Fort Bliss

mission are proposed for analysis. Portions of the Sacramento Mountains and foothills are anticipated for infantry maneuver and training use, to include off-road vehicle maneuver where the terrain permits. Additional bivouac/logistics sites are proposed in grasslands on the FBTC, including southeast McGregor Range and Otero Mesa.

(3) *Facility Improvement:* New firing ranges necessary to support IBCTs will be analyzed as part of the proposed action. In addition, the proposed action contemplates construction of a rail line linking the cantonment area to the FBTC, expansion of range camps, and construction of Forward Operating Bases similar to those used in current operations. Cantonment area development to support the growth of personnel at Fort Bliss will also be analyzed.

Initial screening of the proposed action for potentially significant environmental impacts suggests the following eight resource areas receive the greatest scrutiny in this EIS: Land use, archaeological resources, Native American consultation, natural resources, water and wastewater, facility construction, population and housing, and public services.

Federal, state, and local agencies, Tribal governments and the public are invited to participate in the scoping process for this EIS through public meetings and submission of written comments. Notification of times and locations for the scoping meetings will be published in local newspapers. The scoping process will help identify alternatives, potential environmental impacts, and key issues of concern for analysis in the EIS. To ensure scoping comments are fully considered in the Draft EIS, comments and suggestions should be received no later than 45 days following publication of this NOI.

Dated: September 18, 2008.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health).

[FR Doc. E8–22478 Filed 9–24–08; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Waivers for the Rehabilitation Training—Rehabilitation Continuing Education Program (RCEP)

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of waivers for the Rehabilitation Training—Rehabilitation Continuing Education Program (RCEP).

SUMMARY: The Secretary waives the requirements in 34 CFR 75.250 and 75.261(a) and (c)(2) of the Education Department General Administrative Regulations (EDGAR), respectively, that generally prohibit project periods exceeding five years and project period extensions involving the obligation of additional Federal funds. These waivers will enable the current RCEP grantees in Region II and in Region III to provide continuing education to employees of vocational rehabilitation (VR) agencies and their partners and to continue to receive some additional Federal funding from October 1 through December 15, 2008.

DATES: *Effective Date:* These waivers are effective September 25, 2008.

FOR FURTHER INFORMATION CONTACT: Christine Marschall. Telephone: (202) 245–7429 or via Internet: *Christine.Marschall@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

Individuals with disabilities can 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:

Supplementary Information

The RCEPs provide continuing education to employees of State VR agencies and their partners, as well as other rehabilitation services agencies. The Rehabilitation Services Administration (RSA) in the Department's Office of Special Education and Rehabilitative Services is in the process of redesigning the RCEPs to create and support 10 regional Technical Assistance and Continuing Education (TACE) centers. To carry out this plan, the Department published a notice of final priority and a notice inviting applications in the **Federal Register** on June 5, 2008 (73 FR 32006.) Applications were due on July 31, 2008. The Department intends to make awards for the TACE centers so that grant activities can begin by October 1, 2008. However, the Department did not receive an eligible application for Region II and a fundable application for Region III and plans to re-announce the priority and notice inviting applications for these two regions as soon as possible.

The waivers announced in this notice are intended to ensure that services provided by the current RCEP grantees in Region II and in Region III are provided to the extent possible through December 15, 2008, the anticipated date that the Region II and Region III TACE centers will commence their project activities. The project period for the current RCEP grantee in Region II, The State University of New York at Buffalo, and in Region III, The George Washington University, ends on September 30, 2008. Because it would be contrary to the public interest to have a lapse in continuing education activities in Region II and in Region III before grants for RSA's new TACE centers for these two regions are awarded and implemented, the Secretary will provide some additional funding to the Region II and Region III RCEP grantees referenced in this paragraph to allow them to continue operating until December 15, 2008. In order to do so, the Secretary waives the requirements in 34 CFR 75.250 and 75.261(a) and (c)(2), which generally prohibit project periods exceeding five years and extensions of project periods that involve the obligation of additional Federal funds.

Waiver of Proposed Rulemaking and Delayed Effective Date

Under the Administrative Procedure Act (5 U.S.C. 553) (APA) the Department generally offers interested parties the opportunity to comment on an extension of project period and waiver under 34 CFR 75.250 and 75.261(a) and (c)(2). The APA provides that an agency is not required to conduct notice and comment rulemaking when the agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. We have determined that conducting rulemaking on the waivers of the requirements in 34 CFR 75.250 and 75.261(a) and (c)(2) for the current RCEP grantees in Region II and Region III would be impracticable and therefore contrary to the public interest because there is not adequate time to conduct notice and comment rulemaking before September 30, 2008, when the funding for the current continuing education activities in Region II and in Region III will end. For this reason and to prevent a lapse in these continuing education activities, the Department waives the APA's proposed rulemaking requirements for the waivers of the requirements in 34 CFR 75.250 and 75.261(a) and (c)(2) that will enable the Department to provide some additional funding to the current Region II and

Region III RCEP grantees to allow them to continue operating until December 15, 2008.

The APA also provides that a substantive rule may not take effect within 30 days from publication unless the agency for good cause finds that a delayed effective date would not be in the public interest. For the reasons described in the preceding paragraph, we also are waiving the APA's requirement that this extension and waiver be published at least 30 days before the effective date.

Final Waivers—Rehabilitation Continuing Education Program

The Secretary waives the requirements in 34 CFR 75.250 and 75.261(a) and (c)(2), which prohibit project periods exceeding five years and extensions of project periods that involve the obligation of additional Federal funds, for the current RCEP grantees in Region II and in Region III in the fifth year of their grants.

Under these waivers, the RCEP grantees in Region II and in Region III, which have grants ending on September 30, 2008, are eligible for additional funding, as available, to allow them to continue activities through December 15, 2008.

Regulatory Flexibility Act Certification

The Secretary certifies that the announced waivers would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1995

This notice of waivers would not contain any information collection requirements.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

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/index.html.*

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.*

(Catalog of Federal Domestic Assistance Number 84.264A, Rehabilitation Continuing Education Program)

Program Authority: 29 U.S.C. 772.

Dated: September 22, 2008.

Tracy R. Justesen,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. E8–22565 Filed 9–24–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension; Correction

AGENCY: Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request; correction.

SUMMARY: The Department of Energy published a document in the **Federal Register** of September 18, 2008, announcing the submission of an information request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The document contained an incorrect OMB Control Number.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Binder, Director, Office of Conflict Prevention and Resolution, GC–12, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Correction

In the **Federal Register** of September 18, 2008, in FR Doc. E8–21823, on page 54154, please make the following corrections:

On page 54154 under the heading **SUMMARY** the OMB Control Number is 1910–5118. Also on page 54154, under the heading **SUPPLEMENTARY INFORMATION**, the OMB No. should be 1910–5118.

Issued in Washington, DC on September 19, 2008.

Kathleen M. Binder,

Director, Office of Conflict Prevention and Resolution, Office of General Counsel.

[FR Doc. E8–22564 Filed 9–24–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Docket No. CP08–472–000]

Corning Natural Gas Company; Notice of Application

September 18, 2008.

Take notice that on September 9, 2008, Corning Natural Gas Company (Corning), 330 W. William Street, Corning, New York 14830, filed in Docket No. CP08–472–000, an application pursuant to section 7(f) of the Natural Gas Act (NGA) requesting the determination of a service area within which Corning may, without further Commission authorization, enlarge or expand its natural gas distribution facilities. Corning also requests a waiver of the Commission's accounting and reporting requirements and other regulatory requirements ordinarily applicable to natural gas companies under the NGA and the NGPA and such further relief the Commission may deem appropriate, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Corning proposes to connect its natural gas distribution system (which is entirely within the State of New York) to natural gas supplies in Tioga County, Pennsylvania, by constructing and operating approximately 75 feet of 10-inch diameter pipeline and a meter station. Corning states that it would not distribute, transport, or sell natural gas to any customers in the State of Pennsylvania as a result of the proposed service area determination and additional facilities.

Any questions regarding this application should be directed to Michael I. German, President and CEO, Corning Natural Gas Company, 330 W. Williams Street, Corning, New York 14830, or at (607) 936–3755 (telephone); (607) 962–2844 (facsimile); *mgerman@corninggas.com.*

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date

stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: October 9, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–22499 Filed 9–24–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2232–522]

Duke Energy Carolinas, LLC; Notice of Authorization for Continued Project Operation

September 18, 2008.

On August 29, 2006, Duke Energy Carolinas, LLC, licensee for the Catawba-Wateree Hydroelectric Project, filed an Application for a New license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Catawba-Wateree Hydroelectric Project is located on Catawba River, in Alexander, Burke, Caldwell, Catawba, Gaston, Iredell, Lincoln, McDowell, and Mecklenburg Counties, North Carolina and on the Catawba and Wateree Rivers in the counties of Chester, Fairfield, Kershaw, Lancaster, and York, South Carolina.

The license for Project No. 2232–522 was issued for a period ending August 31, 2008. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR. 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2232–522 is issued to the Duke Energy Carolinas, LLC., for a period effective September 1, 2008 through August 31, 2009, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before August 31, 2009, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise. If the project is not subject to section 15 of the FPA, notice is hereby given that the Duke Energy Carolinas, LLC., is authorized to continue operation of the Catawba-Wateree Hydroelectric Project, until such time as the Commission acts on its application for a subsequent license.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–22498 Filed 9–24–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2008–0377; FRL–8721–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Glass Manufacturing Plants, (Renewal), EPA ICR Number 1131.09, OMB Control Number 2060–0054

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before October 27, 2008.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2008–0377, to (1) EPA online using *www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental

Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sounjay Gairola, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *telephone number:* (202) 564–4003; *e-mail address: gairola.sounjay@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 30, 2008 (73 *FR* 31088), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2008–0377, which is available for public viewing either online at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NSPS for Glass Manufacturing Plants (Renewal).

ICR Numbers: EPA ICR Number 1131.09, OMB Control Number 2060–0054.

ICR Status: This ICR is scheduled to expire on November 30, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The New Source Performance Standards (NSPS) for Glass Manufacturing Plants (40 CFR part 60, subpart CC) was promulgated on October 7, 1980 and amended on October 17, 2000. The provisions of this subpart apply to each glass manufacturing plant that either commenced construction or modification after June 15, 1979.

Owners or operators of subpart CC facilities are required to comply with reporting and recordkeeping requirements, and maintain records of specific information needed by EPA to determine if compliance has been achieved. Sources are required to submit semiannual reports of excess emissions. These notifications, reports, and records are essential in determining compliance; and are required, in general, of all sources subject to NSPS.

Notifications are to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to ensure that the pollution control devices are properly installed and operating and that the standards are being met. Performance test reports are required as these are the Agency's records of a source's initial capability to comply with the emission standards and to serve as a record of the operating conditions under which compliance is to be achieved. The information generated by monitoring, recordkeeping and reporting requirements described in this ICR are used by the Agency to ensure that facilities that are affected by the standard continue to operate the control equipment and achieve continuous compliance with the regulation.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 60, subpart CC, as authorized in sections 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 8 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Glass manufacturing plants.

Estimated Number of Respondents: 41.

Frequency of Response: Occasionally, semiannually and annually.

Estimated Total Annual Hour Burden: 803.

Estimated Total Annual Cost: $302,600, which is comprised of $237,800 in Operations & Maintenance (O&M) costs, $64,800 in labor costs, and no annualized capital/startup costs.

Changes in the Estimates: There is no change in the labor hours to the respondents in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for respondents is very low, negative, or non-existent. Therefore, the labor hours in the previous ICR reflect the current burden to the respondents and are reiterated in this ICR. There is a minor change to the cost figures, since the previous ICR rounded to the nearest $1,000; this ICR presents a cost figure

$200 less than the previous ICR due to using the exact figure.

Dated: September 22, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–22542 Filed 9–24–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2008–0370; FRL–8721–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Metallic Mineral Processing Plants, EPA ICR Number 0982.09, OMB Control Number 2060–0016

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before October 27, 2008.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2008–0370, to (1) EPA online using *www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T , 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sounjay Gairola, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *telephone number:* (202) 564–4003; *e-mail address: gairola.sounjay@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 30, 2008 (73 *FR* 31088), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2008–0370, which is available for either public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted either electronically, or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NSPS for Metallic Mineral Processing Plants (Renewal).

ICR Numbers: EPA ICR Number 0982.09, OMB Control Number 2060–0016.

ICR Status: This ICR is scheduled to expire on November 30, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9 and 48 CFR chapter 15, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The New Source Performance Standards (NSPS) for Metallic Mineral Processing Plants (40 CFR part 60, subpart LL) were promulgated on February 21, 1984. This NSPS affects owners and operators of metallic mineral processing plants.

Owners and operators must conduct initial performance tests, maintain records of startups, shutdowns, and malfunction and continuous monitoring system parameters, and submit semi-annual reports. These notifications, reports, and records are essential in determining compliance; and are required, in general, of all sources subject to NSPS.

Notifications are to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operating and the standards are being met. Performance test reports are required as these are the Agency's records of a source's initial capability to comply with the emission standards and to serve as a record of the operating conditions under which compliance is to be achieved. The information generated by monitoring, recordkeeping and reporting requirements described in this ICR are used by the Agency to ensure that facilities affected by the standard continue to operate the control equipment and achieve continuous compliance with the regulation.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 60, subpart LL, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that has been determined to be private.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 52 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying

information, processing and maintaining information, and disclosing and providing information; adjusting the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Metallic mineral processing plants.

Estimated Number of Respondents: 20.

Frequency of Response: Initially, occasionally, and semiannually.

Estimated Total Annual Hour Burden: 2,306.

Estimated Total Annual Cost: $199,140, which is comprised of $13,000 in O&M costs, $186,140 in labor costs, and no annualized capital/start-up costs.

Changes in the Estimates: There is no change in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens.

Dated: September 22, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–22541 Filed 9–24–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2008–0604; FRL–8720–9]

Conference on Air Quality Modeling

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of conference.

SUMMARY: We announce the Ninth Conference on Air Quality Modeling. Such a conference is required by Section 320 of the Clean Air Act (CAA) to be held every 3 years. The purposes of the ninth conference are to provide an overview of the latest features of the new air quality models and to provide a forum for public review and comment on potential revisions to the way the Agency determines and applies the appropriate air quality models in the future.

DATES:

Comments: Comments on potential revisions to the way the Agency determines and applies the appropriate air quality models must be received on or before November 10, 2008.

Conference: The conference will be held on October 9, 2008 from 8:30 a.m. to 5:30 p.m. and on October 10, 2008 from 8:30 a.m. to 5 p.m. Requests to speak at the conference should be submitted to the individual listed below by October 3, 2008.

ADDRESSES:

Comments: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2008–0604 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments. This is EPA's preferred method for receiving comments.
- *E-mail:* Comments may be sent by electronic mail (e-mail) to *a-and-r-docket@epa.gov*, Attention Docket ID No. EPA–HQ–OAR–2008–0604.
- *Fax:* Fax your comments to 202–566–9744, Attention Docket ID No. EPA–HQ–OAR–2008–0604.
- *Mail:* Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2008–0604.
- *Hand Delivery or Courier:* Deliver your comments to EPA Docket Center, 1301 Constitution Ave., NW., Room 3334, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2008–0604. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (202) 566–1742; fax (202) 566–9744.

Background Information: Additional information and a more detailed agenda are electronically available at *http://www.epa.gov/ttn/scram/9thmodconf.htm.*

Conference: The conference will be held in the EPA Auditorium, Room C111, 109 T.W. Alexander Drive, Research Triangle Park, NC.

FOR FURTHER INFORMATION CONTACT: Peter Eckhoff, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Mail Code C439–01, Research Triangle Park, NC 27711; *telephone:* (919) 541–5385; *fax:* (919) 541–0044; *e-mail address: eckhoff.peter@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. Submitting CBI. Do not submit this information to EPA through *http://www.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:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- 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.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Background

The *Guideline on Air Quality Models* (hereafter, called the *Guideline*, which is found in Appendix W to 40 CFR Part 51), is used by EPA, States, and industry to prepare and review new source permits and State Implementation Plan revisions. The *Guideline* serves as a means by which consistency is maintained in air quality analyses. We originally published the *Guideline* in April 1978 and it was incorporated by reference in the regulations for the Prevention of Significant Deterioration (PSD) of Air Quality in June 1978. We revised the *Guideline* in 1986, and updated it with supplement A in 1987, supplement B in July 1993, and supplement C in August 1995. We published the *Guideline* as appendix W to 40 CFR part 51 when we issued supplement B. We republished the *Guideline* in August 1996 (61 FR 41838) to adopt the CFR system for labeling paragraphs.

To support the process of developing and revising the Guideline during the period 1977–1988, we held the First, Second and Third Conferences on Air Quality Modeling as required by Section 320 of the Clean Air Act to help standardize modeling procedures. These modeling conferences provided us with comments on the *Guideline* and associated revisions, thereby helping us introduce improved modeling techniques into the regulatory process.

In October 1988, we held the Fourth Conference on Air Quality Modeling. Its purpose was to advise the public on new modeling techniques and to solicit comments to guide our consideration of any rulemaking needed to further revise the Guideline. We held the Fifth Conference on Air Quality Modeling in March 1991, which served as a public hearing for the proposed revisions to the *Guideline.* In August 1995, we held the sixth conference as a forum to update our available modeling tools with state-of-the-science techniques for airing these issues and for the public to offer new ideas. The Seventh Conference was held in June 2000 and served as a public hearing for the proposed changes to the recommended air quality models in Appendix W including the CALPUFF modeling system and AERMOD.[1]

The last conference held was the Eighth Conference on Air Quality Modeling in September 22 and 23, 2005, which provided details on recent and impending changes to the recommended air quality models in Appendix W. Several presentations were made, including regulatory status and details on the AERMOD modeling system, the EPA's preferred model for near-field regulatory applications; the regulatory status and implementation issues with the CALPUFF modeling system, the EPA's preferred model for long-range transport of criteria pollutants and their impacts on Federal Class I areas; and on EPA's approach to updating the approved versions of regulatory models under Appendix W to address coding bugs or implementation issues. In addition, several presentations were provided on the current and available methods for model performance evaluation and a panel of experts discussed the use of state-of-the-science prognostic meteorological data for our new dispersion models. The proceedings are found in Docket No. OAR–2005–0157.

III. Public Participation

The Ninth Conference on Air Quality Modeling will be open to the public; no admission fee is charged and there is no formal registration. The conference will begin the first morning with introductory remarks by the presiding EPA official. The following topics will be presented:

I. Overview of Appendix W
II. AERMOD Status and Updates
III. CALPUFF Status and Updates
IV. Non-Guideline Applications of Dispersion Models
V. Update on Use of Assimilated Meteorological Data for Dispersion Models
VI. Review of Current and Available Model Evaluation Methods
VII. Review of New and Emerging Models/Techniques for Future Consideration Under Appendix W; and
VII. Other Presentations by the Public

Those wishing to speak at the conference, whether to volunteer a presentation on a special topic or to offer general comment on any of the modeling techniques scheduled for presentation, should contact us at the address given in the **FOR FURTHER INFORMATION CONTACT** section (note the cutoff date). Such persons should identify the organization (if any) on whose behalf they are speaking and the length of the presentation. If a presentation of general comments is projected to be longer than 10 minutes, the presenter should also state why a longer period is needed. Persons failing to submit a written notice but desiring to speak at the conference should notify the presiding officer immediately before the conference, and they will be scheduled on a time-available basis.

The conference will be conducted informally and chaired by an EPA official. There will be no sworn testimony or cross examination. A verbatim transcript of the conference proceedings will be produced and placed in the docket. Speakers should bring extra copies of their presentation for inclusion in the docket and for the convenience of the recorder. Speakers will also be permitted to enter written comments into the record. Additional written statements or comments should be sent to the OAR Regulatory Docket (see **ADDRESSES** section). A transcript of the proceedings and a copy of all written comments will be maintained in Docket ID No. EPA–HQ–OAR–2008–0604 which will remain open until November 10, 2008 for the purpose of receiving additional comments.

Dated: September 18, 2008.

Jennifer Edmonds,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. E8–22537 Filed 9–24–08; 8:45 am]

BILLING CODE 6560–50–P

[1] *A*MS/*E*PA *R*egulatory *MOD*el; AERMOD was developed by AERMIC: *A*MS/*E*PA *R*egulatory *M*odel *I*mprovement *C*ommittee.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8718–3; Docket ID No. EPA–HQ–ORD–2008–0245]

Draft Toxicological Review of Ethylene Glycol Mono Butyl Ether (EGBE): In Support of the Summary Information in the Integrated Risk Information System (IRIS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Peer Review Workshop.

SUMMARY: EPA is announcing that Eastern Research Group, Inc. (ERG), an EPA contractor for external scientific peer review, will convene an independent panel of experts and organize and conduct an external peer review workshop to review the external review draft document titled, ''Toxicological Review of Ethylene Glycol Mono Butyl Ether (EGBE): In Support of Summary Information on the Integrated Risk Information System (IRIS)'' (EPA/635/R–08/006A). EPA previously announced the 60-day public comment period (ending June 24, 2008) for the draft document in the **Federal Register** on April 25, 2008 (73 FR 22372–22373). EPA will consider public comments and recommendations from the expert panel workshop as EPA finalizes the draft document.

The public comment period and the external peer review workshop are separate processes that provide opportunities for all interested parties to comment on the document. EPA intends to forward public comments submitted in accordance with the **Federal Register** notice (73 FR 22372–22373) to ERG for consideration by the external peer review panel prior to the workshop.

EPA is releasing this draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

The public may attend this workshop as observers through a registration process, and time will be set aside for observers to give brief oral comments at the workshop regarding the draft document under review. The draft document and EPA's peer review charge are available via the Internet on NCEA's home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea.* When finalizing the draft document, EPA intends to consider the comments and recommendations from the external peer review workshop and any public comments that EPA receives in accordance with 73 FR 22372–22373, April 25, 2008. Public comments submitted during the 60-day public comment period ending June 24, 2008, may be observed at *http://www.regulations.gov* under Docket ID No. EPA–HQ–ORD–2008–0245.

DATES: The peer review workshop will begin on October 16, 2008, at approximately 8:30 a.m. and end at approximately 5 p.m., Eastern time. Observers must register by Thursday, October 9, 2008. Indicate at the time of registration if you wish to make brief oral comments at the workshop.

ADDRESSES: The peer review workshop will be held at the Environmental Protection Agency, 109 T.W. Alexander Dr., RTP, NC 27709. ERG is organizing, convening, and conducting the peer review workshop. To attend the workshop as an observer, register by Thursday, October 9, 2008, via the Internet at *https://www2.ergweb.com/projects/conferences/peerreview/register-egbe.htm.* You may also register by e-mail at *meetings@erg.com* (subject line: EGBE Workshop), by phone: 781–674–7374 or toll free at 800–803–2833, or by faxing a registration request to 781–674–2906 (please reference the ''EGBE Peer Review Workshop'' and include your name, title, affiliation, full address and contact information).

The draft ''Toxicological Review of Ethylene Glycol Mono Butyl Ether (EGBE): In Support of Summary Information on the Integrated Risk Information System (IRIS)'' is available via the Internet on the National Center for Environmental Assessment's (NCEA) home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from NCEA's Technical Information Staff, *telephone:* 703–347–8561; *facsimile:* 703–347–8691. If you are requesting a paper copy, please provide your name, mailing address, and the document title. Copies are not available from ERG.

FOR FURTHER INFORMATION CONTACT: For information on the peer review workshop, contact ERG, 110 Hartwell Avenue, Lexington, MA 02421–3136; *telephone:* 781–674–7374; *facsimile:* 781–674–2906; or *e-mail: meetings@erg.com* (*subject line:* EGBE). If you have questions about the document, contact Angela Howard, National Center for Environmental Assessment, (B–243–01), U.S. EPA, 109 T.W. Alexander Dr. RTP, NC 27709; *telephone:* 919–541–5133; *facsimile:* 919–541–0245; or *e-mail: howard.angela@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary of Information About the Integrated Risk Information System (IRIS)

IRIS is a database that contains potential adverse human health effects information that may result from chronic (or lifetime) exposure to specific chemical substances found in the environment. The database (available on the Internet at *http://www.epa.gov/iris*) contains qualitative and quantitative health effects information for more than 540 chemical substances that may be used to support the first two steps (hazard identification and dose-response evaluation) of a risk assessment process. When supported by available data, the database provides oral reference doses (RfDs) and inhalation reference concentrations (RfCs) for chronic health effects, and oral slope factors and inhalation unit risks for carcinogenic effects. Combined with specific exposure information, government and private entities can use IRIS data to help characterize public health risks of chemical substances in a site-specific situation and thereby support risk management decisions designed to protect public health.

II. Workshop Information

Members of the public may attend the workshop as observers, and there will be a limited time for oral comments from the public. Pre-registration is strongly recommended as space is limited, and registrations will be accepted on a first-come, first-served basis. The deadline for pre-registration is October 9, 2008. If space allows, registrations will continue to be accepted after this date, including on-site registrations. Time will be set aside to hear comments from observers, and individuals will be limited to a maximum of five minutes during the morning session of peer review workshop. Please let ERG know if you wish to make comments during the workshop by registering on the Web site at *https://www2.ergweb.com/projects/conferences/peerreview/register-egbe.htm* and indicating your intent to make oral comments.

Dated: September 16, 2008.

Peter W. Preuss,

Director, National Center for Environmental Assessment.

[FR Doc. E8–22538 Filed 9–24–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8720–6]

Lead and Copper Rule Remaining Long-Term Issues Stakeholder Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency is giving notice of a public meeting to discuss remaining ''long-term'' issues with the Lead and Copper Rule. This meeting is open to the public and will provide a forum for public discussion of potential issues that may be appropriate for additional action.

DATES: The public meeting will be held on Tuesday, October 14 and Wednesday, October 15, 2008. Attendees should register for the meeting by contacting Junie Percy of IntelliTech Systems, Inc. at (937) 427–4148 (x210) or by e-mail to *junie.percy@itsysteminc.com* no later than October 6, 2008.

ADDRESSES: The meeting will be held at The Carnegie Institution for Science, 1530 P Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: For administrative meeting information, contact Junie Percy of IntelliTech Systems, Inc. at (937) 427–4148 (x210) or by e-mail to *junie.percy@itsysteminc.com*. For Technical information, contact Rebecca Allen, Office of Water, Office of Ground Water and Drinking Water, Standards and Risk Management Division, Targeting and Analysis Branch, U.S. EPA, 1201 Constitution Ave., NW., Washington, DC 20460 at (202) 564–4689 or by e-mail at *allen.rebeccak@epa.gov*.

Special Accommodations

For information on access or accommodations for individuals with disabilities, please contact Rebecca Allen at (202) 564–4689 or by e-mail at *allen.rebeccak@epa.gov*. Please allow at least 10 days prior to the meeting to give EPA time to process your request.

Dated: September 19, 2008.

Nanci E. Gelb,

Acting Office Director, Office of Ground Water and Drinking Water.

[FR Doc. E8–22554 Filed 9–24–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0709; FRL–8384–6]

Pesticide Program Dialogue Committee; Notice of Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, EPA gives notice of a public meeting of the Pesticide Program Dialogue Committee (PPDC) on October 7–8, 2008. A draft agenda is under development that will include reports from and discussions about issues from the following PPDC work groups: Work Group on 21st Century Toxicology/New Integrated Testing Strategies; and Work Group on Comparative Safety Statements for Pesticide Product Labeling. The agenda will also include reports from the Office of Pesticide Programs' (OPP) Pesticide Incident Workgroup; OPP's Pollinator Protection Team, the Work Group on Web-Distributed Labeling; and updates on endangered species, endocrine disruptors, and resources.

DATES: The PPDC meeting will be held on Tuesday, October 7, 2008, from 9 a.m. to 5 p.m., and Wednesday, October 8, 2008, from 9 a.m. to 12:30 p.m.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably 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 in the Conference Center on the lobby level at the U.S. Environmental Protection Agency's location at One Potomac Yard South, 2777 Crystal Drive, Arlington, VA. This location is approximately a half mile from the Crystal City Metro Station.

FOR FURTHER INFORMATION CONTACT: Margie Fehrenbach, Office of Pesticide Programs (7501P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–4775; fax number: (703) 308–4776; e-mail address: *fehrenbach.margie@epa.gov*.

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 particular interest to persons who work in agricultural settings or persons who are concerned about implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); and the amendments to both of these major pesticide laws by the Food Quality Protection Act (FQPA) of 1996. Potentially affected entities may include, but are not limited to: Agricultural workers and farmers; pesticide industry and trade associations; environmental, consumer, and farmworker groups; pesticide users and growers; pest consultants; State, local and Tribal governments; academia; public health organizations; food processors; and the public. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0709. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Drive, 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.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr*.

A draft agenda is being developed and will be posted by September 22, 2008, on EPA's web site at: *http://www.epa.gov/pesticides/ppdc/*.

II. Background

EPA's Office of Pesticide Programs (OPP) is entrusted with the responsibility to help ensure the safety of the American food supply, the education and protection from unreasonable risk of those who apply or are exposed to pesticides occupationally or through use of products, and general protection of the environment and special ecosystems from potential risks posed by pesticides.

The Charter for the Environmental Protection Agency's Pesticide Program Dialogue Committee (PPDC) was established under the Federal Advisory Committee Act (FACA), Public Law 92–463, in September 1995, and has been renewed every 2 years since that time. PPDC's Charter was renewed November 2, 2007, for another 2–year period. The purpose of PPDC is to provide advice and recommendations to the EPA Administrator on issues associated with pesticide regulatory development and reform initiatives, evolving public policy and program implementation issues, and science issues associated with evaluating and reducing risks from use of pesticides. It is determined that PPDC is in the public interest in connection with the performance of duties imposed on the Agency by law. The following sectors are represented on the PPDC: Pesticide industry and trade associations; environmental/public interest, consumer, and animal rights groups; farm worker organizations; pesticide user, grower, and commodity groups; Federal and State/local/Tribal governments; the general public; academia; and public health organizations.

Copies of the PPDC Charter are filed with appropriate committees of Congress and the Library of Congress and are available upon request.

III. How Can I Request to Participate in this Meeting?

PPDC meetings are open to the public and seating is available on a first-come basis. Persons interested in attending do not need to register in advance of the meeting.

List of Subjects

Environmental protection, Agricultural workers, Agriculture, Chemicals, Foods, Pesticides and pests, Public health.

Dated: September 17, 2008.

Debra Edwards,

Director, Office of Pesticide Programs.

[FR Doc. E8–22583 Filed 9–24–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8721–1]

Science Advisory Board Staff Office Notification of a Meeting of the Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public face-to-face meeting of the chartered SAB to: discuss future environmental science issues within the context of EPA's research directions and priorities, and conduct quality reviews of up to three Draft SAB reports.

DATES: The meeting dates are Monday, October 27, 2008, from 8:30 a.m. to 5 p.m. through Tuesday, October 28, 2008, from 8:30 a.m. to 2:30 p.m. (Eastern Time).

ADDRESSES: The meeting will be held at the Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC; phone (202) 347–4430.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information about this meeting may contact Mr. Thomas O. Miller, Designated Federal Officer (DFO), by mail at EPA SAB Staff Office, (1400F), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by telephone at (202) 343–9982; by fax at (202) 233–0643; or by e-mail at *miller.tom@epa.gov.* The SAB mailing address is U.S. EPA, Science Advisory Board (1400F), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. General information about the SAB, as well as any updates concerning the meeting announced in this notice, may be found on the SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: 1. Future Science and Research. On October 27, 2008, the EPA Science Advisory Board will hold a one day meeting entitled *Looking to the Future.* During this meeting, the SAB will hear from, and interact with, outside experts on: (i) The environmental implications of biofuels, and (ii) the implications for environmental health sciences and human health risk assessment of epigenomics research. Exploration of biofuels and epigenomics research is intended to provide the chartered SAB with an inter-disciplinary introduction to these topics, and to stimulate their thinking generally about future advice to strengthen EPA's response to emerging science issues, especially how EPA might implement inter-disciplinary approaches that incorporate significant emerging research.

In 2007, the chartered SAB committed to provide ongoing advice on strategic research directions for EPA and how they can be implemented. This activity complements the SAB's traditional review of EPA's annual research budget. The first day's seminar-style meeting will be followed by a half-day advisory meeting on October 28, when the chartered SAB will discuss possible implications of the October 27 meeting for ongoing SAB advice on EPA research directions.

2. Review of Draft SAB Reports: (a) Quality Review of the Draft SAB Advisory on Aquatic Life Criteria. EPA's Office of Water asked the Science Advisory Board for advice on the scientific merits of a white paper that identifies and addresses technical issues in deriving aquatic life criteria for emerging contaminants such as pharmaceuticals and personal care products exhibiting endocrine disrupting activity or other toxic mechanisms. The EPA SAB Ecological Processes and Effects Committee (EPEC) augmented with additional experts conducted this review. Additional information on this review can be obtained on the EPA SAB Web site at: *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/MOA%20criteria%20methodology.*

(b) Quality Review of the Draft Advisory on the Drinking Water Contaminant Candidate List 3. EPA's Office of Water asked the SAB to review EPA's draft Drinking Water Contaminant Candidate List 3 (CCL 3). The 1996 Safe Drinking Water Act Amendments (SDWA) require EPA to (1) publish every five years a list of currently unregulated contaminants in drinking water that may pose risks and (2) make determinations on whether or not to regulate at least five contaminants from that list on a staggered five year cycle. The list must be published after consultation with the scientific community, including the SAB, after notice and opportunity for public comment, and after consideration of the occurrence database established under section 1445(g) of the SDWA. The unregulated contaminants considered for the list must include, but are not limited to, substances referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), and substances registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Additional information on this

review can be obtained on the EPA SAB Web site at: *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/CCL3*.

(c) Quality Review of the Draft SAB Advisory on Acrylamide. EPA's National Center for Environmental Assessment, within the Office of Research and Development, has been updating the human health hazard and dose-response assessment for Acrylamide. EPA's Office of Research and Development requested that the Science Advisory Board review its draft assessment entitled ''Toxicological Review of Acrylamide,'' a polymer used primarily in waste water treatment, paper and pulp processing, and mineral processing. The EPA SAB established the Acrylamide Review Panel to conduct this review. Additional information on this review can be obtained on the EPA SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Acrylamide-IRIS-Asst*.

Availability of Meeting Materials: Materials in support of this meeting will be placed on the SAB Web site at *http://www.epa.gov/sab* in advance of this meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB to consider. *Oral Statements:* The total time available for public comments for topics to be discussed at this October 28, 2008 meeting of the SAB will be one hour. Fifteen minutes will be allocated for each of the quality reviews to be conducted and for the general discussion session on strategic research directions. Individuals or groups requesting an oral presentation at a public meeting on October 28, 2008 will be limited to three minutes per speaker. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Mr. Miller, DFO, at the contact information provided above, by October 17, 2008, to be placed on the public speaker list for the October 28, 2008 meeting. *Written Statements:* Written statements should be received in the SAB Staff Office by October 20, 2008, so that the information may be made available to the SAB for their consideration prior to this meeting. Written statements should be supplied to the DFO via e-mail to *miller.tom@epa.gov* (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Meeting Accommodations: For information on access or services for individuals with disabilities, please contact Mr. Thomas Miller at (202) 343–9982, or via e-mail at *miller.tom@epa.gov*. To request accommodation of a disability, please contact Mr. Miller, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: September 18, 2008.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E8–22539 Filed 9–24–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2874]

Petitions for Reconsideration and/or Clarification of Action in Rulemaking Proceeding

September 19, 2008.

Petitions for Reconsideration have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR section 1.429(e). The full text of these documents is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to these petitions must be filed by October 10, 2008. See section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to oppositions must be filed within 10 days after the time for filing oppositions has expired.

Subject: In the Matter of Promotion of Competitive Networks in Local Telecommunications Markets (WT Docket No. 99–217).

Number of Petitions Filed: 2.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–22600 Filed 9–24–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2875]

Petition for Reconsideration of Action in Rulemaking Proceeding

September 19, 2008.

A Petition for Reconsideration has been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR section 1.429(e). The full text of this document is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to this petition must be filed by October 10, 2008. See section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: In the Matter of Applications for Consent to the Transfer of Control of Licenses (MB Docket No. 07–57). XM Satellite Radio Holdings, Inc., Transferor to Sirius Satellite Radio Inc., Transferee.

Number of Petitions Filed: 1.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–22601 Filed 9–24–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Friday, September 26, 2008, to consider the following matter:

Discussion Agenda

Memorandum and resolution re: Simplification of Deposit Insurance Rules for Trust Accounts.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

This Board meeting will be Webcast live via the Internet and subsequently made available on-demand approximately one week after the event. Visit *http://www.vodium.com/goto/fdic/boardmeetings.asp* to view the event. If you need any technical assistance, please visit our Video Help page at: *http://www.fdic.gov/video.html*.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed

to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–7122.

Dated: September 19, 2008.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E8–22501 Filed 9–24–08; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Chronic Fatigue Syndrome Advisory Committee

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the Chronic Fatigue Syndrome Advisory Committee (CFSAC) will hold a meeting. The meeting will be open to the public.

DATES: The meeting will be held on Tuesday, October 28, 2008, and Wednesday, October 29, 2008. The meeting will be held from 9 a.m. to approximately 5 p.m. on both days.

ADDRESSES: Department of Health and Human Services; Room 800 Hubert H. Humphrey Building; 200 Independence Avenue, SW.; Washington, DC 20201

FOR FURTHER INFORMATION CONTACT: Dr. Anand K. Parekh, Executive Secretary, Chronic Fatigue Syndrome Advisory Committee; Department of Health and Human Services; 200 Independence Avenue, SW., Room 727H; Washington, DC 20201; (202) 401–7605 or Olga Nelson, Committee Management Officer, Office of Public Health and Science; U.S. Department of Health and Human Services; 200 Independence Avenue, SW., Room 714B; Washington, DC 20201; (202) 690–5205.

SUPPLEMENTARY INFORMATION: CFSAC was established on September 5, 2002. The Committee was established to advise, consult with, and make recommendations to the Secretary, through the Assistant Secretary for Health, on a broad range of topics including (1) the current state of knowledge and research about the epidemiology and risk factors relating to chronic fatigue syndrome, and identifying potential opportunities in these areas; (2) current and proposed diagnosis and treatment methods for chronic fatigue syndrome; and (3) development and implementation of programs to inform the public, health care professionals, and the biomedical, academic, and research communities about chronic fatigue syndrome advances.

The agenda for this meeting is being developed. The agenda will be posted on the CFSAC Web site, *http://www.hhs.gov/advcomcfs*, when it is finalized.

Public attendance at the meeting is strongly encouraged. Individuals must provide a photo ID for entry into the building where the meeting is scheduled to be held. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person. Members of the public will have the opportunity to provide comments at the meeting. The committee is very interested to hear about experiences that individuals with chronic fatigue syndrome have had interfacing with the medical community. In addition, the committee welcomes specific comments on issues surrounding chronic fatigue syndrome research, provider education, and quality of life. Individuals who wish to address the Committee during the public comment session must pre-register by October 23, 2008. Any individual who wishes to participate in the public comment session should call the telephone number listed in the contact information to register. Public comment will be limited to five minutes per speaker. Members of the public who wish to have printed material distributed to CFSAC members for discuss should submit, at a minimum, one copy of the material to the OPHS Committee Management Officer prior to close of business on October 23, 2008. Contact information for the OPHS Committee Management Officer is listed above.

Dated: September 19, 2008.

Anand K. Parekh,

Executive Secretary, Chronic Fatigue Syndrome Advisory Committee.

[FR Doc. E8–22577 Filed 9–24–08; 8:45 am]

BILLING CODE 4150–42–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Presidential Advisory Council on HIV/AIDS

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services (DHHS) is hereby giving notice that the Presidential Advisory Council on HIV/AIDS (PACHA) will hold a meeting. The meeting will be open to the public.

DATES: The meeting will be held Tuesday, October 21, 2008 and Wednesday, October 22, 2008. The meeting will be held from 9 a.m. to approximately 4 p.m. on October 21, and from 10 a.m. to approximately 4 p.m. on October 22.

ADDRESSES: Department of Health and Human Services, Room 800, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Barnes, Committee Manager, Presidential Advisory Council on HIV/AIDS, Department of Health and Human Services, 200 Independence Avenue, SW., Room 727G, Hubert H. Humphrey Building, Washington, DC 20201; (202) 205–2311. More detailed information about PACHA can be obtained by accessing the Council's Web site at *http://www.pacha.gov*.

SUPPLEMENTARY INFORMATION: PACHA was established by Executive Order 12963, dated June 14, 1995, as amended by Executive Order 13009, dated June 14, 1996. The Council was established to provide advice, information, and recommendations to the Secretary regarding programs and policies intended to (a) Promote effective prevention of HIV disease, (b) advance research on HIV and AIDS, and (c) promote quality services to persons living with HIV disease and AIDS. PACHA was established to serve solely as an advisory body to the Secretary of Health and Human Services. The Council is composed of not more than 21 members. Council membership is selected by the Secretary from individuals who are considered authorities with particular expertise in, or knowledge of, matters concerning HIV and AIDS.

The agenda for this Council meeting is being developed. The meeting agenda will be posted on the Council's Web site when it is drafted.

Public attendance at the meeting is limited to space available. Individuals must provide a photo ID for entry into the building. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person. Pre-registration for public attendance is advisable and can be accomplished

online by accessing the PACHA Web site, *http://www.pacha.gov*.

Members of the public will have the opportunity to provide comments at the meeting. Pre-registration is required for public comment. Any individual who wishes to participate in the public comment session must register online at *http://www.pacha.gov*; registration for public comment will not be accepted by telephone. Public comment will be limited to three minutes per speaker. Any members of the public who wish to have printed material distributed to PACHA members for discussion at the meeting should submit, at a minimum, one copy of the materials to the Committee Manager, PACHA no later than close of business on October 14, 2008. Contact information for the PACHA Committee Manager is listed above.

Dated: September 19, 2008.

Mary (Marty) McGeein,

Executive Director, Presidential Advisory Council on HIV/AIDS.

[FR Doc. E8–22580 Filed 9–24–08; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–08–0691]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 or send comments to Maryam Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

State Medicaid Tobacco Coverage Survey (OMB No. 0920–0691)—Reinstatement—National Center for Chronic Disease Prevention and Control (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Tobacco use remains the leading preventable cause of death in the United States despite the availability of evidence-based treatments for tobacco dependence, which include counseling and FDA-approved pharmacotherapies. To increase both the use of treatment by smokers attempting to quit and the number of smokers who quit successfully, the Guide to Community Preventive Services recommends reducing the out-of-pocket cost of effective tobacco-dependence treatments, and the Public Health Service (PHS) Clinical Practice Guideline supports expanded insurance coverage for tobacco-dependence treatment.

Medicaid recipients have approximately 50% greater smoking prevalence than the overall U.S. adult population, and they are disproportionately affected by tobacco-related disease and disability. In 2000, approximately 32 million low-income persons in the United States received their health insurance coverage through federally funded State Medicaid programs, and approximately 11.5 million (36%) of these persons smoked. Substantial action to improve coverage of tobacco-dependence treatments through Medicaid will be needed if the United States is to achieve the 2010 National Health Objective of 12% smoking prevalence among adults.

The amount and type of coverage for tobacco-dependence treatment offered by Medicaid has been collected for 1998, 2000, 2001, 2002, 2003, 2005, 2006, and 2007. Surveys have been funded by the Robert Wood Johnson Foundation (RWJF) (1998, 2000–2003) and the Centers for Disease Control and Prevention (CDC) (2005–2007) (OMB No. 0920–0691, expiration date 8/31/2008). The most recent analysis of these information collections demonstrated that in 2006, 39 states provided coverage for some FDA-approved medications for the general Medicaid population; however, only 17 states provided some form of coverage for counseling and only seven states covered all FDA-approved medications and at least one form of counseling for all enrollees. Some progress has been made in that the number of states offering no benefits decreased from 15 in 2002 to eight in 2006.

CDC plans to request reinstatement of OMB approval to collect similar information about Medicaid coverage of tobacco-dependence treatments during the years 2008–2010. Respondents will be Medicaid directors in all 50 states and the District of Columbia. To minimize burden, each respondent will receive an electronic copy of the survey pre-filled with the previous year's results. Respondents will only be asked to record changes that occurred since the time of the previous submission. In addition, respondents will be asked to answer new questions pertaining to the recommendations made in the updated PHS clinical practice guideline issued in May of 2008 regarding coverage for combination therapies, smokeless tobacco use, and their familiarity with and use of the 2000 PHS guideline. The minor changes to be incorporated in the revised survey instrument are not expected to have a significant impact on the overall burden estimate. As in previous years, each respondent will also attach a copy of the state's Medicaid coverage plan to their completed survey, in order to assist the research team with the interpretation of responses.

The information to be collected will allow CDC to continue monitoring compliance with the most recent PHS recommendations and the progress of State Medicaid Programs toward the 2010 National Health Objectives and Healthy People 2010 goals.

There are no costs to respondents except the time to complete the survey.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	No. of respondents	No. of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
State Medicaid Programs	51	1	0.5	26
Total				26

Dated: September 16, 2008.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–22594 Filed 9–24–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Community Services

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Notice To Award a Program Expansion Supplement to the National Association for State Community Services Program (NASCSP) in Washington, DC.

CFDA#: 53.570.

Legislative Authority: Section 678A(a)(1)(A) of the Community Services Block Grant (CSBG) Act of 1981, (Pub. L. 97–35) as amended by the Community Opportunities, Accountability, and Training and Educational Services (COATES) Human Services Reauthorization Act of 1998, (Pub. L. 105–285) authorizes the Secretary of Health and Human Services (HHS) to use a percentage of appropriated funds for training, technical assistance, planning, evaluation, performance measurement, monitoring, assistance for States in carrying out corrective actions and the correction of programmatic deficiencies of eligible entities under the CSBG Act.

Amount of Award: $125,000.

Project Period: 9/30/2007–9/29/2010.

Summary:

The purpose of this supplemental request is for the NASCSP to further improve the general capacity and technical competency of states to administer the Community Services Block Grant (CSBG). Targeted assistance will be provided to states for improvement in the areas of state plan development and Results Oriented Management and Accountability (ROMA) focused monitoring. Emerging training and technical assistance needs for states and local agencies receiving CSBG funds will also be assessed and a plan will be developed for strategic assistance in the areas identified. Additionally, this supplemental aims to enhance the capacity of the Office of Community Services (OCS) to continue to convene its Monitoring Task Force (MTF) and provide updates on its comprehensive response to the Government Accountability Office's report on the CSBG program. Specific emphasis will be placed on monitoring states for compliance while encouraging excellence

Contact for Further Information: Josephine B. Robinson, Director, Office of Community Services, 370 L'Enfant Promenade, SW., Washington, DC 20047, *Telephone:* 202/401–9333.

Dated: September 16, 2008.

Josephine B. Robinson,

Director, OCS.

[FR Doc. E8–22476 Filed 9–24–08; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0272]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Notification of a Health Claim or Nutrient Content Claim Based on an Authoritative Statement of a Scientific Body

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by *October 27, 2008.*

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974, or e-mailed to *baguilar@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0374. Also include the FDA docket number found in brackets in the heading of this document.

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 compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Notification of a Health Claim or Nutrient Content Claim Based on an Authoritative Statement of a Scientific Body—(OMB Control Number 0910–0374—Extension)

Section 403(r)(2)(G) and (r)(3)(C) of the Federal Food, Drug and Cosmetic Act (the act) (21 U.S.C. 343(r)(2)(G) and (r)(3)(C)), as amended by the FDA Modernization Act of 1997, provides that any person may market a food product whose label bears a nutrient content claim or a health claim that is based on an authoritative statement of a scientific body of the U.S. Government or the National Academy of Sciences (NAS). Under this section of the act, a person that intends to use such a claim must submit a notification of its intention to use the claim 120 days before it begins marketing the product bearing the claim. In the **Federal Register** of June 11, 1998 (63 FR 32102), FDA announced the availability of a guidance entitled ''Guidance for Industry: Notification of a Health Claim or Nutrient Content Claim Based on an Authoritative Statement of a Scientific Body.'' The guidance provides the agency's interpretation of terms central to the submission of a notification and the agency's views on the information that should be included in the notification. The agency believes that the guidance will enable persons to

meet the criteria for notifications that are established in section 403(r)(2)(G) and (r)(3)(C) of the act. In addition to the information specifically required by the act to be in such notifications, the guidance states that the notifications should also contain information on analytical methodology for the nutrient that is the subject of a claim based on an authoritative statement. FDA intends to review the notifications the agency receives to ensure that they comply with the criteria established by the act.

In the **Federal Register** of May 7, 2008 (73 FR 25749), FDA published a 60-day notice requesting public comment on the information collection provisions. FDA received one letter of comment that was not related to the information collection.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Section of the Act/Basis of Burden	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours Per Response	Total Hours
403(r)(2)(G) (nutrient content claims)	1	1	1	250	250
403(r)(2)(C) (health claims)	2	1	2	450	900
Guidance for notifications	3	1	3	1	3
Total					1,153

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

These estimates are based on FDA's experience with health claims, nutrient content claims, and other similar notification procedures that fall under the agency's jurisdiction. FDA estimates that it will receive one nutrient content claim notification and two health claim notifications per year.

Section 403(r)(2)(G) and 403(r)(3)(C) of the act requires that the notification include the exact words of the claim, a copy of the authoritative statement, a concise description of the basis upon which such person relied for determining that this is an authoritative statement as outlined in the act, and a balanced representation of the scientific literature relating to the relationship between a nutrient and a disease or health-related condition to which a health claim refers or to the nutrient level to which the nutrient content claim refers. This balanced representation of the scientific literature is expected to include a bibliography of the scientific literature on the topic of the claim and a brief, balanced account or analysis of how this literature either supports or fails to support the authoritative statement.

Since the claims are based on authoritative statements of a scientific body of the Federal Government or NAS, FDA believes that the information that is required by the act to be submitted with a notification will be readily available to a respondent. However, the respondent will have to collect and assemble that information. Based on communications with firms that have submitted notifications, FDA estimates that it will take a respondent 250 hours to collect and assemble the information required by the statute for nutrient content claim notifications and 450 hours to collect and assemble the information required by the statute for health claim notifications.

Under the guidance, notifications should also contain information on analytical methodology for the nutrient that is the subject of a claim based on an authoritative statement. The guidance applies to both nutrient content claim and health claim notifications. FDA has determined that this information should be readily available to a respondent and, thus, the agency estimates that it will take a respondent 1 hour to incorporate the information into the notification.

Dated: September 17, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–22636 Filed 9–25–08; 8:45 am]

BILLING CODE 4160–01–S

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(cX4) and 552b(cX6), 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 giant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Integrative Signaling.

Date: October 9, 2008.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Russell T. Dowell, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, MSC 7814, Bethesda, MD 20892, (301) 435–1850, *dowellr@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Tissue Engineering Study Section.

Date: October 13–14, 2008.

Time: 8 a.m. to 5 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: Jean D. Sipe, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, 301/435–1743, *sipej@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Development and Disease Study Section.

Date: October 13–14, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Priscilla B. Chen, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787, *chenp@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics and Parasites.

Date: October 13–14, 2008.

Time: 9 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: Robert Freund, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3200, MSC 7848, Bethesda, MD 20892, (301) 435–1050, *freundr@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts (PBKD and UKGD) and Small Business Grant Applications.

Date: October 15, 2008.

Time: 11 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Shirley Hilden, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7814, Bethesda, MD 20892, (301) 435–1198, *hildens@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Drug Discovery for the Nervous System.

Date: October 16–17, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Mary Custer, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; F07 Immunology Fellowships and Area.

Date: October 16, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Marina del Rey Hotel, 4100 Admiralty Way, Marina del Rey, CA 90290.

Contact Person: Calbert A. Laing, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4210, MSC 7812, Bethesda, MD 20892, 301–435–1221, *laingc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Thrombosis and Erythrocyte Biology.

Date: October 20–21, 2008.

Time: 9 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: Manjit Hanspal, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7804, Bethesda, MD 20892, 301–435–1195, *hanspalm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts 2: Cell Biology.

Date: October 20–21, 2008.

Time: 11 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Noni Bymes, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5130, MSC 7840, Bethesda, MD 20892, (301) 435–1023, *byrnesn@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neurodevelopment, Synaptic Plasticity and Neurodegeneration.

Date: October 23–24, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin St. Francis, 335 Powell Street, San Francisco, CA 94102.

Contact Person: Vilen A. Movsesyan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892, 301–402–7278, *movsesyanv@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Imaging Agents and Technologies.

Date: October 23, 2008.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ross D. Shonat, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7849, Bethesda, MD 20892, 301–435–2786, *shonatr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Sensory, Motor and Cognitive Neuroscience Fellowship Study Section.

Date: October 24, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

Contact Person: John Bishop, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250, *bishopjcsr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Aging Program Project Review.

Date: October 27–28, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Seetha Bhagavan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1126, MSC 7846, Bethesda, MD 20892 (301) 435–1121, *bhagavas@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowship: Brain Disorders and Related Neuroscience.

Date: October 27–28, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott—Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878.

Contact Person: Toby Behar, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7850, Bethesda, MD 20892, (301) 435–4433, *behart@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cardiovascular Sciences Small Business Activities.

Date: October 27, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza National Airport, 1480 Crystal Drive, Arlington, VA 22202.

Contact Person: Lawrence E. Boerboom, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7814, Bethesda, MD 20892, (301) 435–8367, *boerboom@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cardiac Hypertrophy, lschemia and Regeneration.

Date: October 27–28, 2008.

Time: 8 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: Rajiv Kumar, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Interactions Among Genetic and Behavioral/Social Factors Influencing Health and Disease.

Date: October 28–29, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Jose Fernando Arena, PhD, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–435–1735, *arenajmail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Bioinformatics and Software Development.

Date: October 28, 2008.

Time: 8 a.m. to 5 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: Ping Fan, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892, 301–435–1740, *fanp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Experimental Cancer Therapeutics SBIR/STTR.

Date: October 28–29, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

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, *shawkath@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business and Innovative Ultrasound Imaging.

Date: October 28, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Steet, Alexandria, VA 22314.

Contact Person: Xiang-Ning Li, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, 301–435–1744, *lixiang@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Radiation Therapy and Biology SBIR/STTR.

Date: October 28–29, 2008.

Time: 10 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bo Hong, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–435–5879, *hongb@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 17, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–22297 Filed 9–24–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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: Heart, Lung, and Blood Initial Review Group; Clinical Trials Review Committee.

Date: October 27, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Intercontinental Harbor Court, 550 Light Street, Baltimore, MD 21202.

Contact Person: Keary A. Cope, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–435–2222, *copeka@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 17, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–22294 Filed 9–24–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute, Special Emphasis Panel, Echocardiogram Analysis Program Review.

Date: October 2, 2008.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue Bethesda, MD 20814.

Contact Person: Holly K Krull, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–435–0280, *krullh@nhlbi.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Heart, Lung, and Blood Institute, Special Emphasis Panel, Coagulation Program Project.

Date: October 3. 2008.

Time: 1 p.m.to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Charles Joyce, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@nhlbi.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 17, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–22293 Filed 9–24–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 on Alcohol Abuse and Alcoholism Special Emphasis Panel; T32 Institutional Training Grant Applications Review.

Date: November 6, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Lorraine Gunzerath, PhD, MBA, Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, Office of Extramural Activities, Extramural Project Review Branch, 5635 Fishers Lane, Room 3043, Bethesda, MD 20892–9304, 301–443–2369, *lgunzera@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: September 17, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–22295 Filed 9–24–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 on Alcohol Abuse and Alcoholism Special Emphasis Panel; AA1 and AA4 Member Conflict Applications Review.

Date: November 13, 2008.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIAAA, 5935, Fisher Lane, 3002, Rockville, MD, (Telephone Conference Call).

Contact Person: Katrina L. Foster, PhD, Scientific Review Officer, National Inst on Alcohol Abuse & Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm. 3042, Rockville, MD 20852, 301–443–4032, *katrina@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: September 17, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–22296 Filed 9–24–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging, Special Emphasis Panel, Aging Bone.

Date: October 15, 2008.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging Gateway, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: Alicja L. Markowska, PhD, DSC, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

Name of Committee: National Institute on Aging, Special Emphasis Panel, Training Grants.

Date: October 16–17, 2008.

Time: 4 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott, 5701 Marinelli Road, Rockville, MD 20852.

Contact Person: Ramesh Vemuri, PhD, Chief, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2c–212, Bethesda, MD 20892, 301–402–7700 *rv23r@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 17, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–22298 Filed 9–24–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1789–DR]

Alabama; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Alabama (FEMA–1789–DR),

dated September 10, 2008, and related determinations.

DATES: *Effective Date:* September 3, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective September 3, 2008.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–22562 Filed 9–24–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–3287–EM]

California; Amendment No. 4 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of California (FEMA–3287–EM), dated June 28, 2008, and related determinations.

DATES: *Effective Date:* September 16, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of an emergency declaration for the State of California is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 28, 2008.

Hoopa Valley Tribe and Yurok Tribe of the Yurok Reservation for emergency protective measures, (Category B), including direct Federal assistance, under the Public Assistance program, for a period of up to 60 days beginning on June 20, 2008, and ending on August 20, 2008.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant).

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–22558 Filed 9–24–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1786–DR]

Louisiana; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Louisiana (FEMA–1786–DR), dated September 2, 2008, and related determinations.

DATES: *Effective Date:* September 16, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Louisiana is hereby amended to include the Hazard Mitigation Grant Program for following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 2, 2008.

Natchitoches and Winn Parishes for Public Assistance (already designated for emergency protective measures [Category B], including direct Federal assistance, under the Public Assistance program).

Acadia, Ascension, Assumption, East Baton Rouge, Iberia, Iberville, Jefferson, Lafourche, Livingston, Plaquemines, Pointe Coupee, St. Bernard, St. James, St. Landry, Vernon, West Baton Rouge, and West Feliciana Parishes for Public Assistance (already designated for Individual Assistance and debris removal and emergency protective measures [Categories A and B], including direct Federal assistance, under the Public Assistance program).

Catahoula, Grant, La Salle, St. Helena, Tangipahoa, and Washington Parishes for Public Assistance (already designated for Individual Assistance and emergency protective measures [Category B], including direct Federal assistance, under the Public Assistance program).

All parishes in the State of Louisiana are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–22559 Filed 9–24–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1791–DR]

Texas; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas

(FEMA–1791–DR), dated September 13, 2008, and related determinations.

DATES: *Effective Date:* September 16, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 16, 2008, the President amended the cost-sharing arrangements regarding Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), in a letter to R. David Paulison, Administrator, Federal Emergency Management Agency, Department of Homeland Security, as follows:

I have determined that the damage in certain areas of Texas, resulting from Hurricane Ike beginning on September 7, 2008, and continuing, is of sufficient severity and magnitude that special conditions are warranted regarding the cost-sharing arrangement concerning Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act).

Therefore, I amend my previous declarations on September 13, 2008, and authorize Federal funds for assistance for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance program, at 100 percent of the total eligible costs for a 14-day period retroactive to the date of the major disaster declaration.

This adjustment to State and local cost sharing applies only to Public Assistance costs and direct Federal assistance eligible for such adjustments under the law. The law specifically prohibits a similar adjustment for funds provided to States for Other Needs Assistance (Section 408) and the Hazard Mitigation Grant Program (Section 404). These funds will continue to be reimbursed at 75 percent of total eligible costs.

This cost share is effective as of the date of the President's major disaster declaration.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–22560 Filed 9–24–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1790–DR]

Vermont; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Vermont (FEMA–1790–DR), dated September 12, 2008, and related determinations.

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

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 12, 2008, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Vermont resulting from severe storms and flooding during the period of July 21 to August 12, 2008, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Vermont.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program also will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Philip E. Parr, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

The following areas of the State of Vermont have been designated as adversely affected by this declared major disaster:

Addison, Caledonia, Essex, Lamoille, Orange, Washington, and Windsor Counties for Public Assistance.

All counties within the State of Vermont are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–22561 Filed 9–24–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R9-MB-2008-N0255] [91100-3740-GRNT 7C]

Information Collection Sent to the Office of Management and Budget (OMB) for Approval; OMB Control Number 1018-0100; North American Wetlands Conservation Act (NAWCA) Grant Programs

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. The ICR, which is summarized below, describes the nature of the collection and the estimated burden and cost. This ICR is scheduled to expire on September 30, 2008. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before October 27, 2008.

ADDRESSES: Send your comments and suggestions on this ICR to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395-6566 (fax) or OIRA_DOCKET@OMB.eop.gov (e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222-ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or hope_grey@fws.gov (e-mail).

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey by mail or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018-0100.

Title: North American Wetlands Conservation Act (NAWCA) Grant Programs.

Service Form Number(s): None.

Type of Request: Extension of currently approved collection.

Affected Public: Households and individuals; businesses and other for-profit organizations; educational organizations; not-for-profit institutions; and Federal, State, local and/or tribal governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion. The Small Grants Program has one project proposal period per year and the Standard Grants Program has two per year. Annual reports are due 90 days after the anniversary date of the grant agreement. Final reports are due 90 days after the end of the project period. The project period is 2 years.

Activity	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
Small Grants – Applications	70	70	59 hours	4,130
Small Grants – Reports	88	88	32 hours	2,816
U.S. Standard Grants – Applications	60	60	325 hours	19,500
Canadian and Mexican Standard Grants – Applications	54	54	80 hours	4,320
Standard Grants – Reports	201	201	35 hours	7,035
Totals	473	473		37,801

Abstract: The North American Waterfowl Management Plan (NAWMP) is a tripartite agreement among Canada, Mexico, and the United States to enhance, restore, and protect habitat to benefit waterfowl and other wetlands-associated wildlife. Because the NAWMP did not include a mechanism to provide for broadly based and sustained financial support for wetland conservation activities, Congress passed the North American Wetlands Conservation Act in 1989. The NAWCA promotes, through partnerships between the private and public sectors, long-term conservation of North American wetland ecosystems and the waterfowl and other migratory birds, fish, and wildlife that depend upon such habitat.

In addition to providing for a continuing and stable funding base, NAWCA establishes an administrative body, the North American Wetlands Conservation Council. It is made up of a State representative from each of the four flyways, three representatives from nonprofit wetlands conservation organizations, the Secretary of the Board of the National Fish and Wildlife Foundation, and the Director of the Fish and Wildlife Service. The Council recommends funding of select wetlands conservation project proposals to the Migratory Bird Conservation Commission.

There is a Standard and a Small Grants Program. Both are competitive grants programs and require that grant requests be matched by partner contributions at no less than a 1-to-1 ratio. Funds from U.S. Federal sources may contribute to a project, but are not eligible as match.

The Standard Grants Program supports projects in Canada, the United States, and Mexico that involve long-term protection, restoration, and/or enhancement of wetlands and associated uplands habitats. In Mexico, partners may also conduct projects involving technical training, environmental education and outreach, organizational infrastructure development, and sustainable-use studies.

The Small Grants Program operates only in the United States. It supports the same type of projects and adheres to the same selection criteria and administrative guidelines as the U.S. Standard Grants Program. However, project activities are usually smaller in scope and involve fewer project dollars. Grant requests may not exceed $75,000, and funding priority is given to grantees or partners new to the NAWCA Grants Program.

We publish notices of funding availability on the Grants.gov website (http://www.grants.gov) as well as in the Catalog of Federal Domestic Assistance. To compete for grant funds, partnerships submit applications that describe in substantial detail project locations, project resources, future benefits, and other characteristics that meet the standards established by the Council and the requirements of NAWCA. Materials that describe the program and assist applicants in formulating project proposals for Council consideration are available on our website at http://www.fws.gov/birdhabitat/Grants/NAWCA. Persons who do not have access to the Internet may obtain instructional materials by mail. We have not made any major changes in the scope and general nature of the instructions since the OMB first approved the information collection in 1999.

Comments: On June 24, 2008, we published in the Federal Register (73 FR

35703) a notice of our intent to request that OMB renew this ICR. In that notice, we solicited comments for 60 days, ending on August 25, 2008. We received one comment. The comment expressed opposition to the NAWCA grants program, but did not address the information collection requirements. We did not make any changes to our information collection requirements as a result of this comment.

We again invite comments concerning this information collection on:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: September 4, 2008

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

FR Doc. E8–22470 Filed 9–23–08; 8:45 am

BILLING CODE 4310-55-S

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–19154–13, F–19154–14, F–19154–45, F–19154–56, F–19154–61, F–19154–73, F–19154–84; AK–964–1410–KC–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the surface and subsurface estates in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to NANA Regional Corporation, Inc. The lands are near Kiana, Noorvik, and Selawik, Alaska, and are located in:

Kateel River Meridian, Alaska

T. 13 N., R. 5 W., Secs. 1 to 36, inclusive.
Containing approximately 9,042 acres.

T. 12 N., R. 6 W.,
Secs. 5, 6, 7, and 8;
Sec. 13; Secs. 17 to 21, inclusive; Secs. 24 to 36, inclusive.
Containing approximately 7,922 acres.

T. 13 N., R. 7 W.,
Secs. 1 to 17, inclusive;
Secs. 20 to 25, inclusive;
Secs. 27, 28, and 29;
Secs. 33 to 36, inclusive.
Containing approximately 9,023 acres.

T. 14 N., R. 8 W.,
Secs. 1 to 18, inclusive;
Secs. 24, 25, and 36.
Containing approximately 7,336 acres.

T. 16 N., R. 8 W.,
Secs. 2 to 10, inclusive;
Sec. 13;
Secs. 15 to 20, inclusive;
Secs. 24 to 27, inclusive;
Secs. 30 and 31;
Secs. 33 to 36, inclusive.
Containing approximately 16,240 acres.

T. 17 N., R. 9 W.,
Secs. 1 to 36, inclusive.
Containing approximately 19,870 acres.

T. 20 N., R. 10 W.,
Secs. 1 to 36, inclusive.
Containing approximately 20,613 acres.
Aggregating approximately 90,046 acres.

Notice of the decision will also be published four times in the Arctic Sounder.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until October 27, 2008 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Hillary Woods,

Land Law Examiner, Land Transfer Adjudication I.

[FR Doc. E8–22545 Filed 9–24–08; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–08–1310–NB]

Call for Nominations To Fill Two Vacancies on the Pinedale Anticline Working Group (PAWG)

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for nominations for membership on the Pinedale Anticline Working Group (PAWG).

DATES: All nominations should be postmarked no later than 30 days from date of publication of this notice in the **Federal Register**. Final appointments will be made by the Secretary of the Interior.

ADDRESSES: Nominations should be sent to Mr. David Crowley, Pinedale Anticline Working Group Coordinator, Bureau of Land Management, Pinedale Field Office, 1625 West Pine Street, P.O. Box 768, Pinedale, Wyoming 82941, or via e-mail to *dave_crowley@blm.gov*.

SUMMARY: On June 25, 2008, the Secretary of the Interior renewed the Charter for the PAWG and Task Groups. There are currently two vacancies on the PAWG for which nominations are being solicited: A representative of (1) Sublette County Government, and (2) the oil and gas operators. Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory councils that are consistent with the requirements of the Federal Advisory Committee Act (FACA). Individuals or groups who wish to submit a nomination or are interested in becoming a member of the PAWG should submit the specified information within 30 days of this Notice. Nomination forms may be found at *http://www.blm.gov/wy/st/en/field_offices/Pinedale/pawg.html*.

FOR FURTHER INFORMATION CONTACT: Mr. David Crowley, Pinedale Anticline Working Group Coordinator, Bureau of Land Management, Pinedale Field Office, 1625 West Pine Street, P.O. Box 768, Pinedale, Wyoming 82941, telephone (307) 367–5323. *dave_crowley@blm.gov*.

SUPPLEMENTARY INFORMATION: The Pinedale Anticline Working Group

(PAWG) was established as a result of the Record of Decision for the Pinedale Anticline Environmental Impact Statement (2000). On June 25, 2008, the Secretary of the Interior renewed the PAWG Charter. The PAWG advises the BLM on the development and implementation of monitoring plans and adaptive management decisions as development of the Pinedale Anticline Natural Gas Field proceeds. The PAWG is composed of nine members representing governmental agencies, industrial operators, interest groups and local communities. Members are appointed to the PAWG to serve a 2-year term. Nominations are currently being taken to represent: (1) Sublette County Government and (2) the oil and gas operators. Additional information can be found at: *http://www.blm.gov/wy/st/en/field_offices/Pinedale/pawg.html*.

The PAWG Charter established several membership selection criteria and operational procedures that were developed once the Working Group became active. These are listed as follows:

1. The PAWG is composed of nine members who reside in the State of Wyoming. The PAWG members will be appointed by and serve at the pleasure of the Secretary of the Interior.

2. All members should have demonstrated an ability to analyze and interpret data and information, evaluate proposals, identify problems, and promote the use of collaborative management techniques (such as, long term planning, management across jurisdictional boundaries, data sharing, information exchange, and partnerships), and a knowledge of issues involving oil and gas development activities.

3. The service of the PAWG members shall be as follows:

a. PAWG members will be appointed to 2-year terms, subject to removal by the Secretary of the Interior. At the discretion of the Secretary of the Interior, members may be reappointed to additional terms.

b. The Chairperson of the PAWG will be selected by the PAWG.

c. The term of the Chairperson will not exceed 2 years.

Individuals, or representatives of groups, who wish to become members of the Pinedale Anticline Working Group should complete and submit the following information to this office within 30 days after publication in the **Federal Register**:

1. Representative Group to be considered for: Sublette County Government or oil and gas operators:

2. Nominee's Full Name:

3. Business Address:

4. Business Phone:

5. Home Address:

6. Home Phone:

7. Occupation/Title:

8. Qualifications (education including colleges, degrees, major field of study and/or training):

9. Career Highlights (significant related experience, civic and professional activities, elected offices, prior advisory committee experience, or career achievements related to the interest to be represented):

10. Experience in collaborative management techniques, such as long term planning, management across jurisdictional boundaries, data sharing, information exchange and partnerships:

11. Experience in data analysis and interpretation, problem identification and evaluation of proposals:

12. Knowledge of issues involving oil and gas development:

13. Indicate Specific Area of Interest to be Represented from the following:

(1) Sublette County,

(2) The Town of Pinedale,

(3) The oil and gas operators,

(4) The environmental community,

(5) The livestock operators, and

(6) The adjacent landowner.

14. List any leases, licenses, permits, contracts or claims that you hold which involve lands or resources administered by the BLM:

15. Attach two or three Letters of Reference from interests or organization to be represented:

16. Nominated by: Include Nominator's name, address and telephone number(s).

17. Date of nomination: Groups should nominate more than one person and indicate their preferred order of appointment selection.

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

Donald A. Simpson,

Acting State Director.

[FR Doc. E8–22497 Filed 9–24–08; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–610–07–1990–AL]

Call for Nominations for the Bureau of Land Management's California Desert District Advisory Council

ACTION: Call for nominations for the Bureau of Land Management's California Desert District Advisory Council.

AGENCY: Bureau of Land Management, Department of the Interior.

SUMMARY: The Bureau of Land Management's California Desert District is soliciting nominations from the public for five members of its District Advisory Council to serve the 2009–2011 three-year term. Council members provide advice and recommendations to BLM on the management of public lands in southern California. Public notice begins with the publication date of this notice. Nominations will be accepted through Saturday, October 30, 2008. The three-year term would begin January 1, 2009.

The five positions to be filled include:

—One renewable resources representative.
—One elected official.
—One transportation/Rights-of-Way.
—One renewable energy interests.
—One public-at-large.

SUPPLEMENTARY INFORMATION: The California Desert District Advisory Council is comprised of 15 private individuals who represent different interests and advise BLM officials on policies and programs concerning the management of 11 million acres of public land in southern California. The Council meets in formal session three to four times each year in various locations throughout the California Desert District. Council members serve without compensation except for reimbursement of travel expenditures incurred in the course of their duties. Members serve three-year terms and may be nominated for reappointment for an additional three-year term.

Section 309 of the Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of BLM administered lands.

The Secretary also selects council nominees consistent with the requirements of the Federal Advisory Committee Act (FACA), which requires nominees appointed to the council be balanced in terms of points of view and representative of the various interests

concerned with the management of the public lands.

The Council also is balanced geographically, and BLM will try to find qualified representatives from areas throughout the California Desert District. The District covers portions of eight counties, and includes over 11 million acres of public land in the California Desert Conservation Area and 300,000 acres of scattered parcels in San Diego, western Riverside, western San Bernardino, Orange, and Los Angeles Counties (known as the South Coast).

Any group or individual may nominate a qualified person, based upon their education, training, and knowledge of BLM, the California Desert, and the issues involving BLM-administered public lands throughout southern California. Qualified individuals also may nominate themselves.

Nominations must include the name of the nominee; work and home addresses and telephone numbers; a biographical sketch that includes the nominee's work and public service record; any applicable outside interests or other information that demonstrates the nominees qualifications for the position; and the specific category of interest in which the nominee is best qualified to offer advice and council. Nominees may contact the BLM California Desert District External Affairs staff at (951) 697–5217 or write to the address below and request a copy of the nomination form.

All nominations must be accompanied by letters of reference from represented interests, organizations, or elected officials supporting the nomination. Individuals nominating themselves must provide at least one letter of recommendation. Advisory Council members are appointed by the Secretary of the Interior, generally in late January or early February.

ADDRESSES: Nominations should be sent to the District Manager, Bureau of Land Management, California Desert District Office, 22835 Calle San Juan De Los Lagos, Moreno Valley, California 92553.

FOR FURTHER INFORMATION CONTACT: Stephen Razo, BLM California Desert District External Affairs (951) 697–5217.

Steven J. Borchard,

District Manager.

[FR Doc. E8–22544 Filed 9–24–08; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Pursuant to Clean Air Act

Notice is hereby given that on September 17, 2008, a proposed Consent Decree in *United States* v. City of Winslow, Civil Action No. CV–07–8024–PCT–SMM, was lodged with the United States District Court for the District of Arizona.

In this action, the United States, on behalf of the United States Environmental Protection Agency (''EPA''), sued the City of Winslow, Arizona, City Administrator, John Roche, and former Facility owner William Christie (collectively, ''Defendants'') for violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.,* and the National Emission Standard for Hazardous Air Pollutants for Asbestos, 40 CFR Part 61, Subpart M. The proposed Consent Decree resolves claims against the Defendants for their failure to provide advanced notice to the EPA of the demolition of a nine-building apartment complex in Winslow (''the Facility''), and their failure to comply with applicable regulations during the demolition and subsequent removal of regulated asbestos-containing materials from the Facility.

The proposed Consent Decree requires payment of a $240,400 civil penalty, due jointly and severally from the three Defendants. No injunctive relief is required, as the Facility has been completely demolished and none of the Defendants are in the on-going business of demolition.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *City of Winslow,* D.J. Ref. 90–5–2–1–09144.

The Consent Decree may be examined at U.S. EPA Region IX at 75 Hawthorne Street, San Francisco, CA 94105. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html* . A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $4.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Henry Friedman,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–22525 Filed 9–24–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Exemption Application Nos. D–11416, D–11435, D–11449, and D–11460]

Prohibited Transaction Exemptions 2008–09 thru 2008–12; Grant of Individual Exemptions Involving D–11416, Wholesale Electronic Supply; D–11435, Merrill Lynch & Co., Inc.; D–11449, Pileco, Inc.; and D–11460, Mellon Bank, NA

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains an exemption issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a

hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

Wholesale Electronic Supply; Employees Profit Sharing Plan and Trust (the Plan); Located in Dallas, TX

[Prohibited Transaction Exemption 2008–09; Exemption Application No. D–11416]

Exemption

The restrictions in sections 406(a)(1)(A), 406(a)(1)(D), and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) and (c)(1)(D) through (E) of the Code, shall not apply to the sale of a note (the Note) by the Plan to Levco Enterprises, Inc., a party in interest with respect to the Plan, provided that the following conditions are satisfied:

(a) The terms and conditions of the sale are at least as favorable to the Plan as those that the Plan could obtain in an arm's length transaction with an unrelated party;

(b) The Plan receives $45,750.00, the outstanding principal balance of the Note;

(c) The sale is a one-time transaction for cash; and

(d) The Plan pays no commissions, costs, nor other expenses in connection with the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) published on March 13, 2008 at 73 FR 13587.

Notice to Interested Persons: The applicant was unable to notify interested persons within the time frame specified in the Notice. However, the applicant stated that interested persons were subsequently notified by May 30, 2008, in the manner and time frame re-negotiated with the Department. The statement accompanying the Notice informed interested persons that they had 30 days to comment to the Department. No written comments were received by the Department.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 693–8557. (This is not a toll-free number.)

Merrill Lynch & Co., Inc. (ML&Co.) and BlackRock, Inc. (BlackRock); (Collectively, the Applicants); Located in New York, New York

[Prohibited Transaction Exemption 2008–10; Exemption Application No. D–11435]

Exemption

1. Definitions

(a) For purposes of this exemption, the term ''Merrill Lynch/BlackRock Related Entity or Entities'' includes all entities listed in Section 1(a)(1), (a)(2) and (a)(3):

(1) Merrill Lynch & Co., Inc. (*i.e.*, ML&Co.) and any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with ML&Co.,

(2) BlackRock, Inc. (*i.e.*, BlackRock) and any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with BlackRock, and

(3) Any entity that meets the definition of a Merrill Lynch/BlackRock Related Entity during the term of the exemption.

(b) The term ''Merrill Lynch Related Entity'' or ''Merrill Lynch Related Entities'' means ML&Co. and any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with ML&Co.

(c) The term ''BlackRock Related Entity'' or ''BlackRock Related Entities'' means BlackRock and any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with BlackRock.

(d) For purposes of sections (a–c), the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

2. General Conditions

(a) The applicable Merrill Lynch/BlackRock Related Entity or Entities maintain(s) or cause(s) to be maintained for a period of six (6) years from the date of any transaction described herein, such records as are necessary to enable the persons described in paragraph (b) below to determine whether the conditions of this exemption were met, except that—

(1) If the records necessary to enable the persons described in paragraph (b)(1)(i)–(iv) below to determine whether the conditions of the exemption have been met are lost or destroyed, due to circumstances beyond the control of the Merrill Lynch/BlackRock Related Entity or Entities, then no prohibited transaction will be considered to have occurred solely on the basis of the unavailability of those records; and

(2) No party in interest with respect to a plan which engages in the covered transactions, other than any Merrill Lynch/BlackRock Related Entity or Entities, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records have not been maintained or are not available for examination as required by paragraph (b) below.

(b)(1) Except as provided below in paragraph (b)(2), and notwithstanding the provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to above in paragraph (a) above are unconditionally available for examination during normal business hours at their customary location to the following persons or an authorized representative thereof—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service, or the SEC; or

(ii) Any fiduciary of any plan that engages in the covered transactions, or any duly authorized employee or representative of such fiduciary; or

(iii) Any employer of participants and beneficiaries and any employee organization whose members are covered by a plan that engages in the transactions covered herein, or any authorized employee or representative of these entities; or

(iv) Any participant or beneficiary of a plan that engages in the transactions covered herein, or duly authorized representative of such participant or beneficiary;

(2) None of the persons described above in paragraph (b)(1)(ii)–(iv) shall

be authorized to examine trade secrets of the Merrill Lynch/BlackRock Related Entity or Entities, or commercial or financial information, which is privileged or confidential; and

(3) Should the Merrill Lynch/BlackRock Related Entity or Entities refuse to disclose information on the basis that such information is exempt from disclosure, pursuant to paragraph (b)(2) above, the Merrill Lynch/BlackRock Related Entity or Entities shall, by the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

3. Exemptions From Prohibitions Respecting Certain Classes of Transactions Involving Employee Benefit Plans and Certain Underwriters (Modeled After PTE 75–1, Part III)

The restrictions of section 406 of the Act, and the taxes imposed by reason of section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to the purchase or other acquisition of certain securities by an employee benefit plan during the existence of an underwriting or selling syndicate with respect to such securities, from any person other than a Merrill Lynch/BlackRock Related Entity or Entities, when such Merrill Lynch/BlackRock Related Entity or Entities is a fiduciary with respect to such plan, and a member of such syndicate, provided that the following conditions are met:

(a) No Merrill Lynch/BlackRock Related Entity or Entities which is involved in any way in causing the plan to make the purchase is a manager of such underwriting or selling syndicate. For purposes of this exemption, the term ''manager'' means any member of an underwriting or selling syndicate who, either alone or together with other members of the syndicate, is authorized to act on behalf of the members of the syndicate in connection with the sale and distribution of the securities being offered or who receives compensation from the members of the syndicate for its services as a manager of the syndicate.

(b) The securities to be purchased or otherwise acquired are—

(1) Part of an issue registered under the Securities Act of 1933 or, if exempt from such registration requirement, are (i) issued or guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States, (ii) issued by a bank, (iii) issued by a common or contract carrier, if such issuance is subject to the provisions of section 20a of the Interstate Commerce Act, as amended, (iv) exempt from such registration requirement pursuant to a Federal statute other than the Securities Act of 1933, or (v) are the subject of a distribution and are of a class which is required to be registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781), and the issuer of which has been subject to the reporting requirements of section 13 of the Act (15 U.S.C. 78m) for a period of at least 90 days immediately preceding the sale of securities and has filed all reports required to be filed thereunder with the Securities and Exchange Commission during the preceding 12 months.

(2) Purchased at not more than the public offering price prior to the end of the first full business day after the final term of the securities have been fixed and announced to the public, except that—

(i) If such securities are offered for subscription upon exercise of rights, they are purchased on or before the fourth day preceding the day on which the rights offering terminates; or

(ii) If such securities are debt securities, they may be purchased at a public offering price on a day subsequent to the end of such first full business day, provided that the interest rates on comparable debt securities offered to the public subsequent to such first full business day and prior to the purchase are less than the interest rate of the debt securities being purchased.

(3) Offered pursuant to an underwriting agreement under which the members of the syndicate are committed to purchase all of the securities being offered, except if—

(i) Such securities are purchased by others pursuant to a rights offering; or

(ii) Such securities are offered pursuant to an over-allotment option.

(c) The issuer of such securities has been in continuous operation for not less than three years, including the operations of any predecessors, unless—

(1) Such securities are non-convertible debt securities rated in one of the four highest rating categories by at least one of the following rating organizations: Standard & Poor's Rating Services, Moody's Investors Service, Inc., Fitch Ratings Inc., Dominion Bond Ratings Service Limited, and Dominion Bond Rating Service, Inc., or any successors thereto;

(2) Such securities are issued or fully guaranteed by a person described in paragraph (b)(1)(i) of this exemption; or

(3) Such securities are fully guaranteed by a person who has issued securities described in paragraph (b)(1)(ii), (iii), (iv) or (v), and this paragraph (c) of this exemption.

(d) The amount of such securities to be purchased or otherwise acquired by the plan does not exceed 3% of the total amount of such securities being offered.

(e) The consideration to be paid by the plan in purchasing or otherwise acquiring such securities does not exceed three percent of the fair market value of the total assets of the plan as of the last day of the most recent fiscal quarter of the plan prior to such transaction, provided that if such consideration exceeds $1 million, it does not exceed 1% of such fair market value of the total assets of the plan.

If such securities are purchased by the plan from a party in interest or disqualified person with respect to the plan, such party in interest or disqualified person shall not be subject to the civil penalty, which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the conditions of this exemption are not met. However, if such securities are purchased from a party in interest or disqualified person with respect to the plan, the restrictions of section 406(a) of the Act shall apply to any fiduciary with respect to the plan and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall apply to such party in interest or disqualified person, unless the conditions for exemption of PTE 75–1 (40 FR 50845, October 31, 1975), Part II (relating to certain principal transactions) are met.

4. Exemptions From Prohibitions Respecting Certain Classes of Transactions Involving Employee Benefit Plans and Market-Makers (Modeled After PTE 75–1, Part IV)

The restrictions of section 406 of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to any purchase or sale of any securities by an employee benefit plan from or to a Merrill Lynch/BlackRock Related Entity or Entities, which is a market-maker with respect to such securities, when a Merrill Lynch/BlackRock Related Entity or Entities is also a fiduciary with respect to such plan, provided that the following conditions are met:

(a) The issuer of such securities has been in continuous operation for not less than three years, including the operations of any predecessors, unless—

(1) Such securities are non-convertible debt securities rated in one

of the four highest rating categories by at least one of the following rating organizations: Standard & Poor's Rating Services, Moody's Investors Service, Inc., Fitch Ratings Inc., Dominion Bond Ratings Service Limited, and Dominion Bond Rating Service, Inc., or any successors thereto;

(2) Such securities are issued or guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States; or

(3) Such securities are fully guaranteed by a person described in this paragraph (a).

(b) As a result of purchasing such securities—

(1) The fair market value of the aggregate amount of such securities owned, directly or indirectly, by the plan and with respect to which such Merrill Lynch/BlackRock Related Entity or Entities is a fiduciary, does not exceed 3% of the fair market value of the assets of the plan with respect to which such Merrill Lynch/BlackRock Related Entity or Entities is a fiduciary, as of the last day of the most recent fiscal quarter of the plan prior to such transaction, provided that if the fair market value of such securities exceeds $1 million, it does not exceed one percent of such fair market value of such assets of the plan, except that this paragraph shall not apply to securities described in paragraph (a)(2) of this exemption; and

(2) The fair market value of the aggregate amount of all securities for which such Merrill Lynch/BlackRock Related Entity or Entities is a market-maker, which are owned, directly or indirectly, by the plan and with respect to which such Merrill Lynch/BlackRock Related Entity or Entities is a fiduciary, does not exceed 10% of the fair market value of the assets of the plan with respect to which such Merrill Lynch/BlackRock Related Entity or Entities is a fiduciary, as of the last day of the most recent fiscal quarter of the plan prior to such transaction, except that this paragraph shall not apply to securities described in paragraph (a)(2) of this exemption.

(c) At least one person other than a Merrill Lynch/BlackRock Related Entity or Entities is a market-maker with respect to such securities.

(d) The transaction is executed at a net price to the plan for the number of shares or other units to be purchased or sold in the transaction which is more favorable to the plan than that which such Merrill Lynch/BlackRock Related Entity or Entities acting as fiduciary and acting in good faith, reasonably believes to be available at the time of such transaction from all other market-makers with respect to such securities.

For purposes of this exemption, the term ''market-maker'' shall mean any specialist permitted to act as a dealer, and any dealer who, with respect to a security, holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis.

5. Exemption Involving Mutual Fund In-House Plans (Modeled After PTE 77–3)

The restrictions of sections 406 and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to the acquisition or sale of shares of an open-end investment company registered under the Investment Company Act of 1940 by an employee benefit plan covering only employees of such investment company, employees of the investment adviser or principal underwriter for such investment company, which is a Merrill Lynch/BlackRock Related Entity, employees of any other Merrill Lynch/BlackRock Related Entity, or employees of any affiliated person (as defined in section 2(a)(3) of the Investment Company Act of 1940) of such investment adviser or principal underwriter of such investment company, provided the following conditions are met (whether or not such investment company, investment adviser, principal underwriter or any affiliated person thereof is a fiduciary with respect to the plan):

(a) The plan does not pay any investment management, investment advisory or similar fee to such investment adviser, principal underwriter, affiliated person or Merrill Lynch/BlackRock Related Entity or Entities. This condition does not preclude the payment of investment advisory fees by the investment company under the terms of its investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940.

(b) The plan does not pay a redemption fee in connection with the sale by the plan to the investment company of such shares unless (1) such redemption fee is paid only to the investment company, and (2) the existence of such redemption fee is disclosed in the investment company prospectus in effect both at the time of the acquisition of such shares and at the time of such sale.

(c) The plan does not pay a sales commission in connection with such acquisition or sale.

(d) All other dealings between the plan and the investment company, the investment adviser, the principal underwriter for the investment company, or any other Merrill Lynch/BlackRock Related Entity are on a basis no less favorable to the plan than such dealings are with other shareholders of the investment company.

6. Exemption for Certain Transactions Between Investment Companies and Employee Benefit Plans (Modeled After PTE 77–4)

The restrictions of section 406 of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to the purchase or sale by an employee benefit plan of shares of an open-end investment company registered under the Investment Company Act of 1940, where the investment adviser of the investment company is a Merrill Lynch/BlackRock Related Entity and a Merrill Lynch/BlackRock Related Entity is also a fiduciary with respect to the plan, but not an employer of employees covered by the plan, provided that the following conditions are met:

(a) The plan does not pay a sales commission in connection with such purchase or sale.

(b) The plan does not pay a redemption fee in connection with the sale by the plan to the investment company of such shares unless (1) such redemption fee is paid only to the investment company, and (2) the existence of such redemption fee is disclosed in the investment company prospectus in effect both at the time of the purchase of such shares and at the time of such sale.

(c) The plan does not pay an investment management, investment advisory or similar fee with respect to the plan assets invested in such shares for the entire period of such investment. This condition does not preclude the payment of investment advisory fees by the investment company under the terms of its investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940. This condition also does not preclude payment of an investment advisory fee by the plan based on total plan assets from which a credit has been subtracted representing the plan's *pro rata* share of investment advisory fees paid by the investment company. If, during any fee period for which the plan has prepaid its investment management, investment advisory or similar fee, the

plan purchases shares of the investment company, the requirement of this paragraph (c) shall be deemed met with respect to such prepaid fee if by a method reasonably designed to accomplish the same, the amount of the prepaid fee that constitutes the fee with respect to the plan assets invested in the investment company shares: (1) Is anticipated and subtracted from the prepaid fee at the time of payment of such fee, (2) is returned to the plan no later than during the immediately following fee period, or (3) is offset against the prepaid fee for the immediately following fee period or for the fee period immediately following thereafter. For purposes of this paragraph (c), a fee shall be deemed to be prepaid for any fee period if the amount of such fee is calculated as of a date not later than the first day of such period.

(d) A second fiduciary with respect to the plan, who is independent of and unrelated to the fiduciary/investment adviser or any other Merrill Lynch/BlackRock Related Entity, receives a current prospectus issued by the investment company, and full and detailed written disclosure of the investment advisory and other fees charged to or paid by the plan and the investment company, including the nature and extent of any differential between the rates of such fees, the reasons why the fiduciary/investment adviser may consider such purchases to be appropriate for the plan, and whether there are any limitations on the fiduciary/investment adviser with respect to which plan assets may be invested in shares of the investment company and, if so, the nature of such limitations. For purposes of this paragraph (d), such second fiduciary will not be deemed to be independent of and unrelated to the fiduciary/investment adviser or any Merrill Lynch/BlackRock Related Entity if:

(1) Such second fiduciary directly or indirectly controls, is controlled by, or is under common control with the fiduciary/investment adviser or any Merrill Lynch/BlackRock Related Entity;

(2) Such second fiduciary, or any officer, director, partner, employee or relative of such second fiduciary is an officer, director, partner, employee or relative of such fiduciary/investment adviser or any Merrill Lynch/BlackRock Related Entity; or

(3) Such second fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption.

If an officer, director, partner, employee or relative of such fiduciary/investment adviser or any Merrill Lynch/BlackRock Related Entity is a director of such second fiduciary, and if he or she abstains from participation in (i) the choice of the plan's investment adviser, (ii) the approval of any such purchase or sale between the plan and the investment company and (iii) the approval of any change of fees charged to or paid by the plan, then paragraph (d)(2) of this exemption shall not apply.

For purposes of paragraph (d)(1) above, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual, and the term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(e) On the basis of the prospectus and disclosure referred to in paragraph (d), the second fiduciary referred to in paragraph (d) approves such purchases and sales consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act. Such approval may be limited solely to the investment advisory and other fees paid by the mutual fund in relation to the fees paid by the plan and need not relate to any other aspects of such investments. In addition, such approval must be either: (1) Set forth in the plan documents or in the investment management agreement between the plan and the fiduciary/investment adviser, (2) indicated in writing prior to each purchase or sale, or (3) indicated in writing prior to the commencement of a specified purchase or sale program in the shares of such investment company.

(f) The second fiduciary referred to in paragraph (d) above, or any successor thereto, is notified of any change in any of the rates of fees referred to in paragraph (d) and approves in writing the continuation of such purchases or sales and the continued holding of any investment company shares acquired by the plan prior to such change and still held by the plan. Such approval may be limited solely to the investment advisory and other fees paid by the mutual fund in relation to the fees paid by the plan and need not relate to any other aspects of such investment.

7. Exemption Involving Closed-End Investment Company In-House Plans (Modeled After PTE 79–13)

The restrictions of sections 406 and 407(a) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to the acquisition, ownership or sale of shares of a closed-end investment company, which is registered under the Investment Company Act of 1940 and is not a small business investment company as defined in section 103 of the Small Business Investment Company Act of 1958, by an employee benefit plan covering only employees of such investment company, employees of the investment adviser of such investment company, which is a Merrill Lynch/BlackRock Related Entity, employees of any other Merrill Lynch/BlackRock Related Entity, or employees of any affiliated person (as defined in section 2(a)(3) of the Investment Company Act of 1940) of such investment company or investment adviser, provided that the following conditions are met (whether or not such investment company, investment adviser or any affiliated person thereof is a fiduciary with respect to the plan):

(a) The plan does not pay any investment management, investment advisory, or similar fee to such investment adviser, other Merrill Lynch/BlackRock Related Entity or affiliated person. This condition does not preclude the payment of investment advisory fees by the investment company under the terms of its investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940.

(b) The plan does not pay a sales commission in connection with such acquisition or sale to any such investment company, or to any investment adviser, any Merrill Lynch/BlackRock Related Entity or affiliated person; and

(c) All other dealings between the plan and such investment company, the investment adviser, any Merrill Lynch/BlackRock Related Entity or affiliated person are on a basis no less favorable to the plan than such dealings are with other shareholders of the investment company.

8. Exemption for Securities Transactions Involving Employee Benefit Plans and Broker-Dealers (Modeled After PTE 86–128)

Section I: Definition and Special Rules

The following definitions and special rules apply to this exemption:

(a) The term ''Merrill Lynch/BlackRock Related Entity or Entities'' includes affiliates of such entity or entities.

(b) An ''affiliate'' of a Merrill Lynch/BlackRock Related Entity or Entities includes the following:

(1) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), brother, sister, or spouse of a brother or sister, of the Merrill Lynch/BlackRock Related Entity or Entities; and

(2) Any corporation or partnership of which the Merrill Lynch/BlackRock Related Entity or Entities is an officer, director or partner.

A person is not an affiliate of another person solely because such person has investment discretion over the other's assets.

(c) An ''agency cross transaction'' is a securities transaction in which the same Merrill Lynch/BlackRock Related Entity or Entities act(s) as agent for both any seller and any buyer for the purchase or sale of a security.

(d) The term ''covered transaction'' means an action described in Section II (a), (b) or (c) of this exemption.

(e) The term ''effecting or executing a securities transaction'' means the execution of a securities transaction as agent for another person and/or the performance of clearance, settlement, custodial or other functions ancillary thereto.

(f) A plan fiduciary is independent of a Merrill Lynch/BlackRock Related Entity or Entities only if the fiduciary has no relationship to or interest in such Merrill Lynch/BlackRock Related Entity or Entities that might affect the exercise of such fiduciary's best judgment as a fiduciary.

(g) The term ''profit'' includes all charges relating to effecting or executing securities transactions, less reasonable and necessary expenses including reasonable indirect expenses (such as overhead costs) properly allocated to the performance of these transactions under generally accepted accounting principles.

(h) The term ''securities transaction'' means the purchase or sale of securities.

(i) The term ''nondiscretionary trustee'' of a plan means a trustee or custodian whose powers and duties with respect to any assets of the plan are limited to (1) the provision of nondiscretionary trust services to the plan, and (2) duties imposed on the trustee by any provision or provisions of the Act or the Code. The term ''nondiscretionary trust services'' means custodial services and services ancillary to custodial services, none of which services are discretionary. For purposes of this exemption, a person does not fail to be a nondiscretionary trustee solely by reason of having been delegated, by the sponsor of a master or prototype plan, the power to amend such plan.

Section II: Covered Transactions

If each condition of Section III of this exemption is either satisfied or not applicable under Section IV of this exemption, the restrictions of section 406(b) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) and (F) of the Code shall not apply to—

(a) A Merrill Lynch/BlackRock Related Entity or Entities that is a plan fiduciary using its authority to cause a plan to pay a fee to a Merrill Lynch/BlackRock Related Entity or Entities as agent for the plan, for effecting or executing securities transactions, but only to the extent that such transactions are not excessive, under the circumstances, in either amount or frequency;

(b) A Merrill Lynch/BlackRock Related Entity or Entities that is a plan fiduciary acting as the agent in an agency cross transaction for both the plan and one or more other parties to the transaction; or

(c) The receipt by any Merrill Lynch/BlackRock Related Entity or Entities that is a plan fiduciary of reasonable compensation for effecting or executing an agency cross transaction to which a plan is a party from one or more other parties to the transaction.

Section III: Conditions

Except to the extent otherwise provided in Section IV of this exemption, Section II of this exemption applies only if the following conditions are satisfied:

(a) The Merrill Lynch/BlackRock Related Entity engaging in the covered transaction is not an administrator of the plan, or an employer any of whose employees are covered by the plan.

(b)(1) The covered transaction is performed under a written authorization executed in advance by a fiduciary of each plan whose assets are involved in the transaction, which plan fiduciary is independent of the Merrill Lynch/BlackRock Related Entity or Entities engaging in the covered transaction.

(2) For purposes of this exemption, Section III(b) will be deemed satisfied for the period commencing September 29, 2006, notwithstanding Merrill Lynch Investment Managers, LLC (MLIM)'s reliance on written authorizations obtained prior to the consummation of the Merger,[1] provided that after the closing of the Merger, MLIM notified each such authorizing plan fiduciary of the fact that: (A) As a result of the Merger, MLIM had become a subsidiary of BlackRock; (B) the existing authorization by such authorizing plan fiduciary would continue to permit MLIM to engage in the covered transaction on behalf of the plan; (C) such authorization is terminable at will by the plan, without penalty to the plan, upon receipt by MLIM of written notice from an authorizing plan fiduciary of termination; (D) a form expressly providing an election to terminate the authorization with instructions on the use of such form was supplied to each such authorizing plan fiduciary; and (E) failure to return such termination form would result in the continued authorization of MLIM to engage in the covered transactions on behalf of the plan. Notwithstanding the foregoing, this exception does not apply to new authorizations to engage in covered transactions entered into after the consummation of the Merger.

(c) The authorization referred to in paragraph (b) of this Section is terminable at will by the plan, without penalty to the plan, upon receipt by the authorized Merrill Lynch/BlackRock Related Entity or Entities of written notice of termination. A form expressly providing an election to terminate the authorization described in paragraph (b) of this Section with instructions on the use of the form must be supplied to the authorizing plan fiduciary no less than annually. The instructions for such form must include the following information:

(1) The authorization is terminable at will by the plan, without penalty to the plan, upon receipt by the authorized Merrill Lynch/BlackRock Related Entity or Entities of written notice from the authorizing plan fiduciary or other plan official having authority to terminate the authorization; and

(2) Failure to return the form will result in the continued authorization of the authorized Merrill Lynch/BlackRock Related Entity or Entities to engage in the covered transactions on behalf of the plan.

(d) Within three months before an authorization is made, the authorizing plan fiduciary is furnished with any reasonably available information that the Merrill Lynch/BlackRock Related Entity or Entities seeking authorization reasonably believes to be necessary for the authorizing plan fiduciary to determine whether the authorization should be made, including (but not limited to) a copy of this exemption, the

[1] On September 29, 2006, ML&Co. and BlackRock consummated a transaction (the Merger), in which ML&Co. contributed MLIM and various other assets and subsidiaries that comprised its investment management business to BlackRock in exchange for approximately 45% of the outstanding voting securities of BlackRock.

form for termination of authorization described in Section III(c) of this exemption, a description of the Merrill Lynch/BlackRock Related Entity or Entities' brokerage placement practices, and any other reasonably available information regarding the matter that the authorizing plan fiduciary requests.

(e) The Merrill Lynch/BlackRock Related Entity or Entities engaging in a covered transaction furnishes the authorizing plan fiduciary with either:

(1) A confirmation slip for each securities transaction underlying a covered transaction within ten business days of the securities transaction containing the information described in Rule 10b–10(a)(1–7) under the Securities Exchange Act of 1934, 17 CFR 240.10b–10; or

(2) At least once every three months and not later than 45 days following the period to which it relates, a report disclosing:

(A) A compilation of the information that would be provided to the plan pursuant to subparagraph (e)(1) of this Section during the three-month period covered by the report;

(B) The total of all securities transaction related charges incurred by the plan during such period in connection with such covered transactions; and

(C) The amount of the securities transaction-related charges retained by such Merrill Lynch/BlackRock Related Entity or Entities and the amount of such charges paid to other persons for execution or other services.

For purposes of this paragraph (e), the words ''incurred by the plan'' shall be construed to mean ''incurred by the pooled fund'' when such Merrill Lynch/BlackRock Related Entity or Entities engages in covered transactions on behalf of a pooled fund in which the plan participates.

(f) The authorizing plan fiduciary is furnished with a summary of the information required under paragraph (e)(1) of this Section at least once per year. The summary must be furnished within 45 days after the end of the period to which it relates, and must contain the following:

(1) The total of all securities transaction-related charges incurred by the plan during the period in connection with covered securities transactions.

(2) The amount of the securities transaction-related charges retained by the authorized Merrill Lynch/BlackRock Related Entity or Entities and the amount of these charges paid to other persons for execution or other services.

(3) A description of the Merrill Lynch/BlackRock Related Entity or Entities' brokerage placement practices, if such practices have materially changed during the period covered by the summary.

(4)(i) A portfolio turnover ratio, calculated in a manner which is reasonably designed to provide the authorizing plan fiduciary with the information needed to assist in discharging its duty of prudence. The requirements of this paragraph (f)(4)(i) will be met if the ''annualized portfolio turnover ratio'', calculated in the manner described in paragraph (f)(4)(ii), is contained in the summary.

(ii) The ''annualized portfolio turnover ratio'' shall be calculated as a percentage of the plan assets consisting of securities or cash over which the authorized Merrill Lynch/BlackRock Related Entity or Entities had discretionary investment authority, or with respect to which such Merrill Lynch/BlackRock Related Entity or Entities rendered, or had any responsibility to render, investment advice (the portfolio) at any time or times (management period(s)) during the period covered by the report. First, the ''portfolio turnover ratio'' (not annualized) is obtained by dividing (A) the lesser of the aggregate dollar amounts of purchases or sales of portfolio securities during the management period(s) by (B) the monthly average of the market value of the portfolio securities during all management period(s). Such monthly average is calculated by totaling the market values of the portfolio securities as of the beginning and ending of each management period and as of the end of each month that ends within such period(s), and dividing the sum by the number of valuation dates so used. For purposes of this calculation, all debt securities whose maturities at the time of acquisition were one year or less are excluded from both the numerator and the denominator.

The ''annualized portfolio turnover ratio'' is then derived by multiplying the ''portfolio turnover ratio'' by an annualizing factor. The annualizing factor is obtained by dividing (C) the number twelve by (D) the aggregate duration of the management period(s) expressed in months (and fractions thereof).

(iii) The information described in this paragraph (f)(4) is not required to be furnished in any case where the authorized Merrill Lynch/BlackRock Related Entity or Entities acting as plan fiduciary has not exercised discretionary authority over trading in the plan's account during the period covered by the report.

For purposes of this paragraph (f), the words ''incurred by the plan'' shall be construed to mean ''incurred by the pooled fund'' when such Merrill Lynch/BlackRock Related Entity or Entities engages in covered transactions on behalf of a pooled fund in which the plan participates.

(g) If an agency cross transaction to which Section IV(b) of this exemption does not apply is involved, the following conditions must also be satisfied:

(1) The information required under Section III(d) or IV(d)(1)(B) of this exemption includes a statement to the effect that with respect to agency cross transactions, the Merrill Lynch/BlackRock Related Entity or Entities effecting or executing the transactions will have a potentially conflicting division of loyalties and responsibilities regarding the parties to the transactions;

(2) The summary required under Section III(f) of this exemption includes a statement identifying the total number of agency cross transactions during the period covered by the summary and the total amount of all commissions or other remuneration received or to be received from all sources by the Merrill Lynch/BlackRock Related Entity or Entities engaging in the transactions in connection with those transactions during the period;

(3) The Merrill Lynch/BlackRock Related Entity or Entities effecting or executing the agency cross transaction has the discretionary authority to act on behalf of, and/or provide investment advice to, either (A) one or more sellers or (B) one or more buyers with respect to the transaction, but not both.

(4) The agency cross transaction is a purchase or sale, for no consideration other than cash payment against prompt delivery of a security for which market quotations are readily available; and

(5) The agency cross transaction is executed or effected at a price that is at or between the independent bid and independent ask prices for the security prevailing at the time of the transaction.

(h) A Merrill Lynch/BlackRock Related Entity or Entities serving as trustee (other than a nondiscretionary trustee) may only engage in a covered transaction with a plan that has total net assets with a value of at least $50 million and in the case of a pooled fund, the $50 million net asset requirement will be met if 50 percent or more of the units of beneficial interest in such pooled fund are held by plans each of which has total net assets with a value of at least $50 million.

For purposes of the net asset tests described above, where a group of plans is maintained by a single employer or

controlled group of employers, as defined in section 407(d)(7) of the Act, the $50 million net asset requirement may be met by aggregating the assets of such plans, if the assets are pooled for investment purposes in a single master trust.

(i) The Merrill Lynch/BlackRock Related Entity or Entities serving as trustee (other than a nondiscretionary trustee) engaging in a covered transaction furnishes, at least annually, to the authorizing plan fiduciary of each plan the following:

(1) The aggregate brokerage commissions, expressed in dollars, paid by the plan to brokerage firms affiliated with such trustee;

(2) The aggregate brokerage commissions, expressed in dollars, paid by the plan to brokerage firms not affiliated with such trustee;

(3) The average brokerage commissions, expressed as cents per share, paid by the plan to brokerage firms affiliated with such trustee; and

(4) The average brokerage commissions, expressed as cents per share, paid by the plan to brokerage firms not affiliated with such trustee.

For purposes of this paragraph (i), the words ''paid by the plan'' should be construed to mean ''paid by the pooled fund'' when the trustee engages in covered transactions on behalf of a pooled fund in which the plan participates.

Section IV: Exceptions From Conditions

(a) Certain plans not covering employees. Section III of this exemption does not apply to covered transactions to the extent they are engaged in on behalf of individual retirement accounts meeting the conditions of 29 CFR 2510.3–2(d), or plans, other than training programs, that cover no employees within the meaning of 29 CFR 2510.3–3.

(b) Certain agency cross transactions. Section III of this exemption does not apply in the case of an agency cross transaction, provided that the Merrill Lynch/BlackRock Related Entity or Entities effecting or executing the transaction and any other Merrill Lynch/BlackRock Related Entity or Entities:

(1) Does not render investment advice to any plan for a fee within the meaning of section 3(21)(A)(ii) of the Act with respect to the transaction;

(2) Is not otherwise a fiduciary who has investment discretion with respect to any plan assets involved in the transaction, see 29 CFR 2510.3–21(d); and

(3) Does not have the authority to engage, retain or discharge any person who is or is proposed to be a fiduciary regarding any such plan assets.

(c) Recapture of profits. Section III(a) of this exemption does not apply in any case where the Merrill Lynch/BlackRock Related Entity or Entities engaging in a covered transaction returns or credits to the plan all profits earned by that Merrill Lynch/BlackRock Related Entity or Entities in connection with the securities transactions associated with the covered transaction.

(d) Special rules for pooled funds. In the case of a Merrill Lynch/BlackRock Related Entity or Entities engaging in a covered transaction on behalf of an account or fund for the collective investment of the assets of more than one plan (pooled fund):

(1) Section III (b), (c), and (d) of this exemption does not apply if—

(A) The arrangement under which the covered transaction is performed is subject to the prior and continuing authorization, in the manner described in this paragraph (d)(1), of an authorizing plan fiduciary with respect to each plan whose assets are invested in the pooled fund who is independent of the Merrill Lynch/BlackRock Related Entity or Entities. The requirement that the authorizing plan fiduciary be independent of the Merrill Lynch/BlackRock Related Entity or Entities shall not apply in the case of a plan covering only employees of the Merrill Lynch/BlackRock Related Entity or Entities, if the requirements of Section IV(d)(2)(A) and (B) of this exemption are met.

(B) The authorizing plan fiduciary is furnished with any reasonably available information that the Merrill Lynch/BlackRock Related Entity or Entities engaging or proposing to engage in the covered transactions reasonably believes to be necessary for the authorizing plan fiduciary to determine whether the authorization should be given or continued, not less than 30 days prior to implementation of the arrangement or material change thereto, including (but not limited to) a description of the Merrill Lynch/BlackRock Related Entity or Entities' brokerage placement practices, and, where requested, any reasonably available information regarding the matter upon the reasonable request of the authorizing plan fiduciary at any time.

(C) In the event an authorizing plan fiduciary submits a notice in writing to the Merrill Lynch/BlackRock Related Entity or Entities engaging in or proposing to engage in the covered transaction objecting to the implementation of, material change in, or continuation of, the arrangement, the plan on whose behalf the objection was tendered is given the opportunity to terminate its investment in the pooled fund, without penalty to the plan, within such time as may be necessary to effect the withdrawal in an orderly manner that is equitable to all withdrawing plans and to the nonwithdrawing plans. In the case of a plan that elects to withdraw under this subparagraph (d)(1)(C), the withdrawal shall be effected prior to the implementation of, or material change in, the arrangement; but an existing arrangement need not be discontinued by reason of a plan electing to withdraw.

(D) In the case of plan whose assets are proposed to be invested in the pooled fund subsequent to the implementation of the arrangement and that has not authorized the arrangement in the manner described in subparagraphs (d)(1)(B) and (C) of this Section, the plan's investment in the pooled fund is subject to the prior written authorization of an authorizing plan fiduciary who satisfies the requirements of subparagraph (d)(1)(A).

(2) To the extent that Section III(a) of this exemption prohibits any Merrill Lynch/BlackRock Related Entity or Entities from being the employer of employees covered by a plan investing in a pool managed by the Merrill Lynch/BlackRock Related Entity or Entities, Section III(a) of this exemption does not apply if—

(A) The Merrill Lynch/BlackRock Related Entity or Entities is an ''investment manager'' as defined in section 3(38) of the Act, and

(B) Either (i) the Merrill Lynch/BlackRock Related Entity or Entities returns or credits to the pooled fund all profits earned by the Merrill Lynch/BlackRock Related Entity or Entities in connection with all covered transactions engaged in by the Merrill Lynch/BlackRock Related Entity or Entities on behalf of the fund, or (ii) the pooled fund satisfies the requirements of paragraph IV(d)(3).

(3) A pooled fund satisfies the requirements of this paragraph for a fiscal year of the fund if—

(A) On the first day of such fiscal year, and immediately following each acquisition of an interest in the pooled fund during the fiscal year by any plan covering employees of any Merrill Lynch/BlackRock Related Entity or Entities, the aggregate fair market value of the interests in such fund of all plans covering employees of any Merrill Lynch/BlackRock Related Entity or Entities does not exceed twenty percent of the fair market value of the total assets of the fund; and

(B) The aggregate brokerage commissions received by any Merrill Lynch/BlackRock Related Entity or Entities, in connection with covered transactions engaged in by any Merrill Lynch/BlackRock Related Entity or Entities on behalf of all pooled funds in which a plan covering employees of any Merrill Lynch/BlackRock Related Entity or Entities participates, do not exceed five percent of the total brokerage commissions received by any Merrill Lynch/BlackRock Related Entity or Entities from all sources in such fiscal year.

9. Exemption for Cross-Trades of Securities by Index and Model-Driven Funds (Modeled After PTE 2002–12)

Section I. Exemption for Cross-Trading of Securities by Index and/or Model-Driven Funds

The restrictions of sections 406(a)(1)(A) and 406(b)(2) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Sections II and III of this exemption, below, are satisfied.

(a) The purchase and sale of securities between an Index Fund or a Model-Driven Fund (either, a Fund; or collectively, the Funds), as defined in Section IV(a) and (b) of this exemption, below, and another Fund, at least one of which holds ''plan assets'' subject to the Act; or

(b) The purchase and sale of securities between a Fund and a Large Account, as defined in Section IV(e) of this exemption, below, at least one of which holds ''plan assets'' subject to the Act, pursuant to a portfolio restructuring program, as defined in Section IV(f) of this exemption, below, of the Large Account;

Notwithstanding the foregoing, this exemption shall apply to cross-trades between two or more Large Accounts pursuant to a portfolio restructuring program if such cross-trades occur as part of a single cross-trading program involving both Funds and Large Accounts for which securities are cross-traded solely as a result of the objective operation of the program.

Section II. Specific Conditions

(a) The cross-trade is executed at the closing price, as defined in Section IV(h) of this exemption below.

(b) Any cross-trade of securities by a Fund occurs as a direct result of a ''triggering event,'' as defined in Section IV(d) of this exemption, and is executed no later than the close of the third business day following such ''triggering event.''

(c) If the cross-trade involves a Model-Driven Fund, the cross-trade does not take place within three (3) business days following any change made by the Manager to the model underlying the Fund.

(d) The Manager has allocated the opportunity for all Funds or Large Accounts to engage in the cross-trade on an objective basis which has been previously disclosed to the authorizing fiduciaries of plan investors, and which does not permit the exercise of discretion by the Manager (e.g., a pro rata allocation system).

(e) No more than twenty (20) percent of the assets of the Fund or Large Account at the time of the cross-trade is comprised of assets of employee benefit plans maintained by the Manager for its own employees (Manager Plans) for which the Manager exercises investment discretion.

(f)(1) Cross-trades of equity securities involve only securities that are widely-held, actively-traded, and for which market quotations are readily available from independent sources that are engaged in the ordinary course of business of providing financial news and pricing information to institutional investors and/or the general public, and are widely recognized as accurate and reliable sources for such information. For purposes of this requirement, the terms ''widely-held'' and ''actively-traded'' shall be deemed to include any security listed in an Index, as defined in Section IV(c) of this exemption; and

(2) Cross-trades of fixed-income securities involve only securities for which market quotations are readily available from independent sources that are engaged in the ordinary course of business of providing financial news and pricing information to institutional investors and/or the general public, and are widely recognized as accurate and reliable sources for such information.

(g) The Manager receives no brokerage fees or commissions as a result of the cross-trade.

(h) As of the date this exemption is granted, a plan's participation in the cross-trading program of a Manager, as a result of investments made in any Index or Model-Driven Fund that holds plan assets is subject to a written authorization executed in advance of such investment by a fiduciary of the plan which is independent of the Manager engaging in the cross-trade transactions. For purposes of this exemption, the requirement that the authorizing plan fiduciary be independent of the Manager shall not apply in the case of a Manager Plan.

(i) With respect to existing plan investors in any Index or Model-Driven Fund that holds plan assets as of the date this exemption is granted, the independent fiduciary is furnished with a written notice, not less than forty-five (45) days prior to the implementation of the cross-trading program, that describes the Fund's participation in the cross-trading program of the Manager, provided that:

(1) Such notice allows each plan an opportunity to object to the plan's participation in the cross-trading program as a Fund investor by providing the plan with a special termination form;

(2) The notice instructs the independent plan fiduciary that failure to return the termination form to the Manager, by a specified date (which shall be at least 30 days following the plan's receipt of the form) shall be deemed to be an approval by the plan of its participation in the Manager's cross-trading program as a Fund investor; and

(3) If the independent plan fiduciary objects to the plan's participation in the cross-trading program as a Fund investor by returning the termination form to the Manager by the specified date, the plan is given the opportunity to withdraw from each Index or Model-Driven Fund without penalty prior to the implementation of the cross-trading program, within such time as may be reasonably necessary to effectuate the withdrawal in an orderly manner.

(j) Prior to obtaining the authorization described in Section II(h) of this exemption, and in the notice described in Section II(i) of this exemption, the following statement must be provided by the Manager to the independent plan fiduciary:

Investment decisions for the Fund (including decisions regarding which securities to buy or sell, how much of a security to buy or sell, and when to execute a sale or purchase of securities for the Fund) will not be based in whole or in part by the Manager on the availability of cross-trade opportunities and will be made prior to the identification and determination of any cross-trade opportunities. In addition, all cross-trades by a Fund will be based solely upon a ''triggering event'' set forth in this exemption. Records documenting each cross-trade transaction will be retained by the Manager.

(k) Prior to any authorization set forth in Section II(h) of this exemption, and at the time of any notice described in Section II(i) of this exemption, the independent plan fiduciary must be furnished with any reasonably available

information necessary for the fiduciary to determine whether the authorization should be given, including (but not limited to) a copy of this exemption, an explanation of how the authorization may be terminated, detailed disclosure of the procedures to be implemented under the Manager's cross-trading practices (including the ''triggering events'' that will create the cross-trading opportunities, the independent pricing services that will be used by the Manager to price the cross-traded securities, and the methods that will be used for determining closing price), and any other reasonably available information regarding the matter that the authorizing plan fiduciary requests. The independent plan fiduciary must also be provided with a statement that the Manager will have a potentially conflicting division of loyalties and responsibilities to the parties to any cross-trade transaction and must explain how the Manager's cross-trading practices and procedures will mitigate such conflicts.

With respect to Funds that are added to the Manager's cross-trading program or changes to, or additions of, triggering events regarding Funds, following the authorizations described in Section II(h) or Section II(i) of this exemption, the Manager shall provide a notice to each relevant independent plan fiduciary of each plan invested in the affected Funds prior to, or within ten (10) days following, such addition of Funds or change to, or addition of, triggering events, which contains a description of such Fund(s) or triggering event(s). Such notice will also include a statement that the plan has the right to terminate its participation in the cross-trading program and its investment in any Index Fund or Model-Driven Fund without penalty at any time, as soon as is necessary to effectuate the withdrawal in an orderly manner.

(l) At least annually, the Manager notifies the independent fiduciary for each plan that has previously authorized participation in the Manager's cross-trading program as a Fund investor, that the plan has the right to terminate its participation in the cross-trading program and its investment in any Index Fund or Model-Driven Fund that holds plan assets without penalty at any time, as soon as is necessary to effectuate the withdrawal in an orderly manner. This notice shall also provide each independent plan fiduciary with a special termination form and instruct the fiduciary that failure to return the form to the Manager by a specified date (which shall be at least thirty (30) days following the plan's receipt of the form) shall be deemed an approval of the subject plan's continued participation in the cross-trading program as a Fund investor. In lieu of providing a special termination form, the notice may permit the independent plan fiduciary to utilize another written instrument by the specified date to terminate the plan's participation in the cross-trading program, provided that in such case the notice explicitly discloses that a termination form may be obtained from the Manager upon request. Such annual re-authorization must provide information to the relevant independent plan fiduciary regarding each Fund in which the plan is invested, as well as explicit notification that the plan fiduciary may request and obtain disclosures regarding any new Funds in which the plan is not invested that are added to the cross-trading program, or any new triggering events (as defined in Section IV(d) of this exemption) that may have been added to any existing Funds in which the plan is not invested, since the time of the initial authorization described in Section II(h) of this exemption, or the time of the notice described in Section II(i) of this exemption.

(m) With respect to a cross-trade involving a Large Account:

(1) The cross-trade is executed in connection with a portfolio restructuring program, as defined in Section IV(f) of this exemption, with respect to all or a portion of the Large Account's investments which an independent fiduciary of the Large Account (other than in the case of any assets of a Manager Plan) has authorized the Manager to carry out or to act as a ''trading adviser,'' as defined in Section IV(g) of this exemption, in carrying out a Large Account-initiated liquidation or restructuring of its portfolio;

(2) Prior to the cross-trade, a fiduciary of the Large Account who is independent of the Manager (other than in the case of any assets of a Manager Plan) [2] has been fully informed of the Manager's cross-trading program, has been provided with the information required in Section II(k) of this exemption, and has provided the Manager with advance written authorization to engage in cross-trading in connection with the restructuring, provided that—

(A) Such authorization may be terminated at will by the Large Account upon receipt by the Manager of written notice of termination.

(B) A form expressly providing an election to terminate the authorization, with instructions on the use of the form, is supplied to the authorizing Large Account fiduciary concurrent with the receipt of the written information describing the cross-trading program. The instructions for such form must specify that the authorization may be terminated at will by the Large Account, without penalty to the Large Account, upon receipt by the Manager of written notice from the authorizing Large Account fiduciary;

(3) All cross-trades made in connection with the portfolio restructuring program must be completed by the Manager within sixty (60) days of the initial authorization (or initial receipt of assets associated with the restructuring, if later) to engage in such restructuring by the Large Account's independent fiduciary, unless such fiduciary agrees in writing to extend this period for another thirty (30) days; and,

(4) No later than thirty (30) days following the completion of the Large Account's portfolio restructuring program, the Large Account's independent fiduciary must be fully apprised in writing of all cross-trades executed in connection with the restructuring. Such writing shall include a notice that the Large Account's independent fiduciary may obtain, upon request, the information described in Section III(a) of this exemption, subject to the limitations described in Section III(b) of this exemption. However, if the program takes longer than sixty (60) days to complete, interim reports containing the transaction results must be provided to the Large Account fiduciary no later than fifteen (15) days following the end of the initial sixty (60) day period and the succeeding thirty (30) day period.

Section III. General Conditions

(a) The Manager maintains or causes to be maintained for a period of six (6) years from the date of each cross-trade the records necessary to enable the persons described in paragraph (b) of this Section to determine whether the conditions of this exemption have been met, including records which identify:

(1) On a Fund by Fund basis, the specific triggering events which result in the creation of the model prescribed output or trade list of specific securities to be cross-traded;

(2) On a Fund by Fund basis, the model prescribed output or trade list which describes: (A) Which securities to buy or sell; and (B) how much of each

[2] However, proper disclosures must be made to, and written authorization must be made by, an appropriate plan fiduciary for the Manager Plan in order for the Manager Plan to participate in a specific portfolio restructuring program as part of a Large Account.

security to buy or sell; in detail sufficient to allow an independent plan fiduciary to verify that each of the above decisions for the Fund was made in response to specific triggering events; and

(3) On a Fund by Fund basis, the actual trades executed by the Fund on a particular day and which of those trades resulted from triggering events.

Such records must be readily available to assure accessibility and maintained so that an independent fiduciary, or other persons identified below in paragraph (b) of this Section, may obtain them within a reasonable period of time. However, a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Manager, the records are lost or destroyed prior to the end of the six-year period, and no party in interest other than the Manager shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (b) below.

(b)(1) Except as provided in paragraph (b)(2) and notwithstanding any provisions of sections 504(a)(2) and (b) of the Act, the records referred to in paragraph (a) of this Section are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(B) Any fiduciary of a plan participating in a cross-trading program who has the authority to acquire or dispose of the assets of the plan, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer with respect to any plan participating in a cross-trading program or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any Manager Plan participating in a cross-trading program, or any duly authorized employee or representative of such participant or beneficiary.

(2) If, in the course of seeking to inspect records maintained by a Manager pursuant to this Section, any person described in paragraph (b)(1)(B) through (D) seeks to examine trade secrets, or commercial or financial information of the Manager that is privileged or confidential, and the Manager is otherwise permitted by law to withhold such information from such person, the Manager may refuse to disclose such information provided that, by the close of the thirtieth (30th) day following the request, the Manager gives a written notice to such person advising the person of the reasons for the refusal and that the Department of Labor may request such information.

(3) The information required to be disclosed to persons described in paragraph (b)(1)(B) through (D) shall be limited to information that pertains to cross-trades involving a Fund or Large Account in which they have an interest.

Section IV. Definitions

The following definitions apply for purposes of this exemption:

(a) ''Index Fund''—Any investment fund, account or portfolio sponsored, maintained, trusteed, or managed by a Manager or an Affiliate, in which one or more investors invest, and—

(1) Which is designed to track the rate of return, risk profile and other characteristics of an Index, as defined in Section IV(c) of this exemption, by either (i) replicating the same combination of securities which compose such Index or (ii) sampling the securities which compose such Index based on objective criteria and data;

(2) For which the Manager does not use its discretion, or data within its control, to affect the identity or amount of securities to be purchased or sold;

(3) That either contains ''plan assets'' subject to the Act, is an investment company registered under the Investment Company Act of 1940, or contains assets of one or more institutional investors, which may include, but not be limited to, such entities as an insurance company separate account or general account, a governmental plan, a university endowment fund, a charitable foundation fund, a trust or other fund which is exempt from taxation under section 501(a) of the Code; and,

(4) That involves no agreement, arrangement, or understanding regarding the design or operation of the Index Fund which is intended to benefit a Manager or an Affiliate, or any party in which a Manager or an Affiliate may have an interest.

(b) ''Model-Driven Fund''—Any investment fund, account or portfolio sponsored, maintained, trusteed, or managed by the Manager or an Affiliate in which one or more investors invest, and—

(1) Which is composed of securities the identity of which and the amount of which are selected by a computer model that is based on prescribed objective criteria using independent third party data, not within the control of the Manager, to transform an Index, as defined in Section IV(c) of this exemption;

(2) Which either contains ''plan assets'' subject to the Act, is an investment company registered under the Investment Company Act of 1940, or contains assets of one or more institutional investors, which may include, but not be limited to, such entities as an insurance company separate account or general account, a governmental plan, a university endowment fund, a charitable foundation fund, a trust or other fund which is exempt from taxation under section 501(a) of the Code; and

(3) That involves no agreement, arrangement, or understanding regarding the design or operation of the Model-Driven Fund or the utilization of any specific objective criteria which is intended to benefit a Manager or an Affiliate, or any party in which a Manager or an Affiliate may have an interest.

(c) ''Index''—A securities index that represents the investment performance of a specific segment of the public market for equity or debt securities in the United States and/or foreign countries, but only if—

(1) The organization creating and maintaining the index is—

(A) Engaged in the business of providing financial information, evaluation, advice or securities brokerage services to institutional clients,

(B) A publisher of financial news or information, or

(C) A public securities exchange or association of securities dealers; and

(2) The index is created and maintained by an organization independent of the Manager, as defined in Section IV(i) of this exemption; and

(3) The index is a generally accepted standardized index of securities which is not specifically tailored for the use of the Manager.

(d) ''Triggering Event'':

(1) A change in the composition or weighting of the Index underlying a Fund by the independent organization creating and maintaining the Index;

(2) A material amount of net change in the overall level of assets in a Fund, as a result of investments in and withdrawals from the Fund, provided that:

(A) Such material amount has either been identified in advance as a specified amount of net change relating to such Fund and disclosed in writing as a ''triggering event'' to an independent fiduciary of each plan having assets held in the Fund prior to, or within ten (10) days following, its inclusion as a ''triggering event'' for such Fund or the

Manager has otherwise disclosed in the description of its cross-trading practices pursuant to Section II(k) of this exemption the parameters for determining a material amount of net change, including any amount of discretion retained by the Manager that may affect such net change, in sufficient detail to allow the independent fiduciary to determine whether the authorization to engage in cross-trading should be given; and

(B) Investments or withdrawals as a result of the Manager's discretion to invest or withdraw assets of a Manager Plan, other than a Manager Plan which is a defined contribution plan under which participants direct the investment of their accounts among various investment options, including such Fund, will not be taken into account in determining the specified amount of net change;

(3) An accumulation in the Fund of a material amount of either:

(A) Cash which is attributable to interest or dividends on, and/or tender offers for, portfolio securities; or

(B) Stock attributable to dividends on portfolio securities; provided that such material amount has either been identified in advance as a specified amount relating to such Fund and disclosed in writing as a ''triggering event'' to an independent fiduciary of each plan having assets held in the Fund prior to, or within ten (10) days after, its inclusion as a ''triggering event'' for such Fund, or the Manager has otherwise disclosed in the description of its cross-trading practices pursuant to Section II(k) of this exemption the parameters for determining a material amount of accumulated cash or securities, including any amount of discretion retained by the Manager that may affect such accumulated amount, in sufficient detail to allow the independent fiduciary to determine whether the authorization to engage in cross-trading should be given;

(4) A change in the composition of the portfolio of a Model-Driven Fund mandated solely by operation of the formulae contained in the computer model underlying the Model-Driven Fund where the basic factors for making such changes (and any fixed frequency for operating the computer model) have been disclosed in writing to an independent fiduciary of each plan having assets held in the Model-Driven Fund, prior to, or within ten (10) days after, its inclusion as a ''triggering event'' for such Model-Driven Fund; or

(5) A change in the composition or weighting of a portfolio for an Index Fund or a Model-Driven Fund which results from an independent fiduciary's direction to exclude certain securities or types of securities from the Fund, notwithstanding that such securities are part of the index used by the Fund.

(e) ''Large Account''—Any investment fund, account or portfolio that is not an Index Fund or a Model-Driven Fund sponsored, maintained, trusteed (other than a Fund for which the Manager is a nondiscretionary trustee) or managed by the Manager, which holds assets of either:

(1) An employee benefit plan within the meaning of section 3(3) of the Act that has $50 million or more in total assets (for purposes of this requirement, the assets of one or more employee benefit plans maintained by the same employer, or controlled group of employers, may be aggregated provided that such assets are pooled for investment purposes in a single master trust);

(2) An institutional investor that has total assets in excess of $50 million, such as an insurance company separate account or general account, a governmental plan, a university endowment fund, a charitable foundation fund, a trust or other fund which is exempt from taxation under section 501(a) of the Code; or

(3) An investment company registered under the Investment Company Act of 1940 (*e.g.*, a mutual fund) other than an investment company advised or sponsored by the Manager; provided that the Manager has been authorized to restructure all or a portion of the portfolio for such Large Account or to act as a ''trading adviser'' (as defined in Section IV(g) of this exemption) in connection with a portfolio restructuring program (as defined in Section IV(f) of this exemption) for the Large Account.

(f) ''Portfolio restructuring program''—Buying and selling the securities on behalf of a Large Account in order to produce a portfolio of securities which will be an Index Fund or a Model-Driven Fund managed by the Manager or by another investment manager, or in order to produce a portfolio of securities the composition of which is designated by a party independent of the Manager, without regard to the requirements of Section IV(a)(3) or (b)(2) of this exemption, or to carry out a liquidation of a specified portfolio of securities for the Large Account.

(g) ''Trading adviser''—A Merrill Lynch/BlackRock Related Entity or Entities whose role is limited with respect to a Large Account to the disposition of a securities portfolio in connection with a portfolio restructuring program that is a Large Account-initiated liquidation or restructuring within a stated period of time in order to minimize transaction costs. The Merrill Lynch/BlackRock Related Entity or Entities does not have discretionary authority or control with respect to any underlying asset allocation, restructuring or liquidation decisions for the account in connection with such transactions and does not render investment advice [within the meaning of 29 CFR 2510.3–21(c)] with respect to such transactions.

(h) ''Closing price''—The price for a security on the date of the transaction, as determined by objective procedures disclosed to investors in advance and consistently applied with respect to securities traded in the same market, which procedures shall indicate the independent pricing source (and alternates, if the designated pricing source is unavailable) used to establish the closing price and the time frame after the close of the market in which the closing price will be determined.

(i) ''Manager''—A Merrill Lynch/BlackRock Related Entity which is:

(1) A bank or trust company, or any Affiliate thereof, which is supervised by a state or federal agency; or

(2) An investment adviser or any Affiliate thereof which is registered under the Investment Advisers Act of 1940.

(j) ''Affiliate''—An affiliate of a Manager is:

(1) Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with the Manager:

(2) Any officer, director, employee or relative of such Manager, or partner of any such Manager;

(3) Any corporation or partnership of which such Manager is an officer, director, partner or employee; or

(4) Any Merrill Lynch/BlackRock Related Entity.

(k) ''Control''—The power to exercise a controlling influence over the management or policies of a person other than an individual.

(l) ''Relative''—A relative is a person that is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(m) ''Nondiscretionary trustee''—A plan trustee whose powers and duties with respect to any assets of the plan are limited to (1) the provision of nondiscretionary trust services to the plan, and (2) duties imposed on the trustee by any provision or provisions of the Act or the Code. The term ''nondiscretionary trust services'' means

custodial services and services ancillary to custodial services, none of which services are discretionary. For purposes of this exemption, a person who is otherwise a nondiscretionary trustee will not fail to be a nondiscretionary trustee solely by reason of having been delegated, by the sponsor of a master or prototype plan, the power to amend such plan.

DATES: *Effective Date:* This exemption is effective September 29, 2006 and will expire at such time as ML&Co.'s equity interest in BlackRock falls below ten percent (10%).

Background

On September 29, 2006, ML&Co. and BlackRock consummated a transaction (i.e., the Merger), in which ML&Co. contributed Merrill Lynch Investment Managers, LLC (MLIM) and various other assets and subsidiaries that comprised its investment management business to BlackRock in exchange for approximately 45% of the outstanding voting securities of BlackRock. Prior to the Merger, ML&Co. and its affiliates engaged in various types of transactions, involving employee benefit plans, in reliance on, and in accordance with the conditions of various class exemptions (the Applicable Exemptions) [3] issued by the Department. Also, prior to the Merger, affiliates of ML&Co. engaged in the same transactions as described in the Applicable Exemptions, involving plans, with affiliates of BlackRock for which no exemption was required because ML&Co. had, at most, a *de minimis* ownership interest in BlackRock.

As a result of the Merger, certain transactions involving companies affiliated with ML&Co. and companies affiliated with BlackRock may now be prohibited transactions as defined in section 406 of the Act. However, the ownership interest existing between ML&Co. and its affiliates and BlackRock and its affiliates may nevertheless not result in the various entities being considered ''affiliates'' of each other as defined in the Applicable Exemptions. As the Applicable Exemptions extend relief only to affiliated entities, as defined thereunder, ML&Co. and its affiliates, and BlackRock and its affiliates may not be able to take advantage of the relief provided by the Applicable Exemptions.

[3] Parts III and IV of PTE 75–1 (40 FR 50845, October 31, 1975); PTE 77–3 (42 FR 18734, April 8, 1977); PTE 77–4 (42 FR 18732, April 8, 1977); PTE 79–13 (44 FR 25533, May 1, 1979); PTE 86–128 (51 FR 41686, November 18, 1986; as amended by 67 FR 64137, October 17, 2002); and PTE 2002–12 (67 FR 9483, March 1, 2002).

Accordingly, the Department is granting an individual exemption which will enable the Applicants to engage in the transactions described in the Applicable Exemptions, provided the conditions contained herein are met.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice of Proposed Exemption published on May 9, 2008 at 73 FR 26418.

Written Comments and Hearing Requests

The Department received one comment letter with respect to the Notice of Proposed Exemption (the Notice), which was filed by the Applicants. The Applicants addressed several points regarding the Notice in their comment letter. The Applicants' commentary, a discussion of the Department's views in response thereto and the modifications to the proposed exemption are discussed below.

The Applicants note that the Notice provided for temporary relief that would expire five years from the date the final exemption is published in the **Federal Register**. The Applicants contend that they are seeking no relief beyond that provided by the Applicable Exemptions, and that they are not asking that any conditions to relief under the Applicable Exemptions be liberalized. The Applicants point out that the Applicable Exemptions need not be renewed every five years, and the transactions described in the Notice are no more likely to raise self-dealing concerns than those covered by the Applicable Exemptions. The Applicants have recommended, as a more appropriate alternative to the five-year period, that the exemption expire once ML&Co.'s equity ownership in BlackRock falls below ten percent (10%). The Applicants believe that once that point is reached, transactions between the BlackRock Related Entities and the Merrill Lynch Related Entities would not constitute prohibited acts of self-dealing under the Act, and there would no longer be a need for individual exemptive relief. While the Department is not expressing an opinion as to whether ML&Co.'s ownership of less than 10% of BlackRock would ensure that transactions that are entered into between the BlackRock Related Entities and the Merrill Lynch Related Entities would not involve acts of self-dealing in violation of the Act, the Department has determined to adopt the Applicants' comment and, accordingly, has amended the Notice such that the exemption will expire once ML&Co.'s equity ownership in BlackRock falls below ten percent (10%).

The Applicants also commented with respect to the Notice regarding Applicable Exemptions PTE 77–3 (*Exemption Involving Mutual Fund In-House Plans*) and PTE 79–13 (*Exemption Involving Closed-End Investment Company In-House Plans*). The Applicants state that, as drafted, the portion of the proposed exemption modeled on PTE 77–3 covers employees of an ''affiliated person'' (as defined in section 2(a)(3) of the Investment Company Act of 1940) of an investment adviser or principal underwriter; provided that the investment adviser or principal underwriter or their affiliates are a Merrill Lynch/BlackRock Related Entity or Entities. The Applicants point out that the portion of the Notice modeled on PTE 79–13 is similarly drafted.[4] The Applicants represent that under section 2(a)(3) of the Investment Company Act of 1940, it is not clear that the BlackRock Related Entities are affiliates of ML&Co. or the Merrill Lynch Related Entities. The Applicants conclude that, as drafted, a Plan sponsored by a Merrill Lynch Related Entity may not be able to use the portion of the proposed exemption modeled on PTE 77–3 and PTE 79–13 to purchase ''BlackRock'' mutual funds.

The Department agrees with the comment and has modified portions of the operative language of the exemption as it pertains to the Applicable Exemptions PTE 77–3 and PTE 79–13.

The Applicants also commented with respect to the Notice regarding Applicable Exemption PTE 77–4 (*Exemption for Certain Transactions Between Investment Companies and Employee Benefit Plans*). The Applicants state that the first paragraph of the portion of the proposed exemption modeled on PTE 77–4

[4] According to the Applicants, the investment adviser for a ''BlackRock'' mutual fund will be a BlackRock Related Entity. A Merrill Lynch Related Entity may not be an affiliated person (as defined in section 2(a)(3) of the Investment Company Act of 1940) of a BlackRock Related Entity that is acting as an investment adviser to a BlackRock mutual fund. Since ML&Co. owns more than 5% of the outstanding voting securities of BlackRock, ML&Co. would be considered an ''affiliated person'' of BlackRock within the meaning of Section 2(a)(3) of the Investment Company Act of 1940. The Applicants further state that the BlackRock Related Entities are ''affiliated persons'' of BlackRock within the meaning of Section 2(a)(3) of the Investment Company Act, because BlackRock owns more than 5% of the outstanding voting securities of each of the BlackRock Related Entities. However, the Applicants point out that Section 2(a)(3) of the Investment Company Act distinguishes between affiliates with a parent-subsidiary relationship and affiliates that would only be affiliates because of a common parent (*i.e.*, sibling companies). In the latter case, two affiliates of a parent entity are not necessarily affiliates of each other.

provides ''* * * where the investment adviser of the investment company is a Merrill Lynch/BlackRock Related Entity or Entities *who is also a fiduciary with respect to the plan* [emphasis added]* * *'' The Applicants comment that the language in italics suggests that the investment adviser to the mutual fund and the fiduciary must be the same entity. If that were the case, the Applicants point out that a Merrill Lynch Related Entity that is a fiduciary may not be able to cause a Plan to invest in a mutual fund that is advised by a BlackRock Related Entity (or vice versa). The Applicants state that PTE 77–4 is not so restricted. The investment adviser can be a fiduciary or an ''affiliate'' of a fiduciary. Thus, the Applicants request that the portion of the exemption modeled on PTE 77–4 be revised to make clear that if the investment adviser to the mutual fund is a BlackRock Related Entity, the fiduciary can be either a BlackRock Related Entity or a Merrill Lynch Related Entity (and vice versa). The Department has considered the comment and has modified the operative language of the exemption as it pertains to the Applicable Exemption PTE 77–4.

Further, the Applicants commented with respect to the Notice regarding Applicable Exemption PTE 86–128 (*Exemption for Securities Transactions Involving Employee Benefit Plans and Broker-Dealers*). The Applicants state that Section IV(b) of the portion of the Notice modeled on PTE 86–128 provides, ''Section III of this exemption does not apply in the case of an agency cross transaction, provided that the *Merrill Lynch/BlackRock Related Entity or Entities effecting or executing the transaction*'' [emphasis added] meets specific conditions. The Applicants comment that the language in italics suggests that only the Merrill Lynch/BlackRock Related Entity that effects or executes the transaction must meet the specific conditions set forth in Section IV(b) of this portion of the exemption. If that were the case, the Applicants indicate that a Merrill Lynch Related Entity could effect or execute a transaction without complying with the requirements of Section III of the portion of the Notice modeled on PTE 86–128, where a BlackRock Related Entity acted as a fiduciary with investment discretion with respect to plan assets involved in a transaction.

The Applicants then state that in PTE 86–128, Section IV(b) provides: ''Section III of this exemption does not apply in the case of an agency cross transaction, provided that the person effecting or executing the transaction'' meets specific conditions. The Applicants point out that the definition of ''person'' in PTE 86–128 includes the person and affiliates of the person, and therefore, Section IV of PTE 86–128 requires that the person effecting or executing the transaction and its affiliates meet the conditions set forth in Sections IV(b)(1)–(3) of PTE 86–128. To prevent the Notice from providing relief broader than that contained in PTE 86–128, the Applicants recommend that the portion of the Notice modeled on PTE 86–128 should be revised to make clear that the Merrill Lynch/BlackRock Related Entity or Entities effecting or executing the transaction and any other Merrill Lynch/BlackRock Related Entity must meet the conditions set forth in Section IV(b)(1)–(3).

The Department has considered the comment and has modified the operative language of the exemption as it pertains to the Applicable Exemption PTE 86–128.

Additionally, the Applicants commented with respect to the Notice regarding Applicable Exemption PTE 2002–12 (*Exemption for Cross-Trades of Securities by Index and Model-Driven Funds*). The Applicants note that the term ''Manager'' under the portion of the Notice modeled on PTE 2002–12 is defined as (i) Banks or trust companies that are supervised by a state or federal agency, (ii) registered investment advisers and (iii) their respective ''Affiliates''. Under this definition, the Applicants explain that where a BlackRock Related Entity is acting as an investment adviser, the definition of Manager may not include the Merrill Lynch Entities (and vice versa). If the definition of ''Manager'' does not include both the Merrill Lynch Related Entities and the BlackRock Related Entities, the Applicants indicate that the use of ''Manager'' and ''Manager Plans'' throughout the portion of the Proposed Exemption modeled on PTE 2002–12 will lead to unintended consequences, in particular with respect to Sections II(e), (g), (h) and (m). For example, if a Merrill Lynch Related Entity is not considered an ''Affiliate'' of an investment adviser that is a BlackRock Related Entity, the portion of the Notice modeled on PTE 2002–12 could be construed to permit the Merrill Lynch Related Entity to receive a commission in connection with a cross-trade. Similarly, the Applicants explain that where a BlackRock Related Entity is a ''Manager'', plans sponsored by a Merrill Lynch Related Entity may be unable to take advantage of or be restricted by the special rules governing Manager Plans.

To address this issue, the Applicants propose that the definition of ''Affiliate'' be revised to specifically include the Merrill Lynch/BlackRock Related Entities.

The Department has considered the comment and has modified the operative language of the exemption as it pertains to the Applicable Exemption PTE 2002–12.

Finally, the Applicants sought to correct certain facts that appeared in the Notice. For example, the Summary of Facts and Representations included in the Notice states that ''ML&Co. now owns a 50.3% economic interest in BlackRock.'' The Applicants wish to clarify that ML&Co.'s ownership interest in BlackRock fluctuates and that the Stockholders Agreement imposes a 49.8% cap on ML&Co.'s ownership of BlackRock equity and requires ML&Co. to dispose of BlackRock equity if it exceeds the specified ownership cap. The Applicants also sought a number of technical corrections to the Notice which the Department has taken under consideration or otherwise made.

Accordingly, after giving full consideration to the entire record, including the Applicants' written comments, the Department has decided to grant the exemption, as modified herein.

For further information regarding the Applicants' comments and other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–11435) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on May 9, 2008 at 73 FR 26418.

For Further Information Contact: Mrs. Blessed Chuksorji-Keefe, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693–8540. (This is not a toll-free number.)

Pileco, Inc. Employees Profit Sharing Plan (the Plan); Located in Houston, Texas

[Prohibited Transaction Exemption 2008–11; Exemption Application No. D–11449]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale of certain unimproved real property (the Property) by the Plan to Pileco, Inc., the sponsor of the Plan, and a party in interest with respect to the Plan, provided that the following conditions are satisfied:

(a) The sale is a one-time transaction for cash;

(b) At the time of the sale, the Plan receives the greater of either: (1) $280,000; or (2) the fair market value of the Property as established by a qualified, independent appraiser in an updated appraisal of such Property;

(c) The Plan pays no fees, commissions or other expenses associated with the sale;

(d) The terms and conditions of the sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated third party; and

(e) The Plan trustee (1) Determines, among other things, whether it is in the best interest of the Plan to proceed with the sale of the Property; (2) reviews and approves the methodology used in the appraisal that is being relied upon; and (3) ensures that such methodology is applied by the qualified independent appraiser in determining the fair market value of the Property on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on July 8, 2008 at 73 FR 39175.

For Further Information Contact: Blessed Chuksorji-Keefe of the Department at (202) 693–8567. (This is not a toll-free number).

Mellon Bank N.A. (Mellon); Located in Pittsburgh, Pennsylvania

[Prohibited Transaction Exemption 2008–12; Exemption Application No. D–11460]

Exemption

The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply as of January 18, 2008, to the cash sale of certain medium term notes (the Notes) for $28,584,601.46 by the EB Daily Liquidity Money Market Fund (the Fund) to The Bank of New York Mellon Corporation (BNYMC), a party in interest with respect to employee benefit plans invested in the Fund, provided that the following conditions are met.

(a) The sale was a one-time transaction for cash payment made on a delivery versus payment basis in the amount described in paragraph (b);

(b) The Fund received an amount as of the settlement date of the sale which was equal to the greatest of:

(i) The amortized cost of the Notes as of the date of the sale, if the Fund has been valued at amortized cost at any time within the preceding year;

(ii) The price at which the Fund purchased the Notes, if the Fund is valued at fair market value and the Fund has not been valued at amortized cost at any time within the preceding year; or

(iii) The fair market value of the Notes as of the date of the sale, as determined by an independent third party source or independent appraisal (in each case, including accrued but unpaid interest);

(c) The Fund did not bear any commissions or transaction costs with respect to the sale;

(d) Mellon, as trustee of the Fund, determined that the sale of the Notes was appropriate for and in the best interests of the Fund, and the employee benefit plans invested, directly or indirectly, in the Fund, at the time of the transaction;

(e) Mellon took all appropriate actions necessary to safeguard the interests of the Fund, and the employee benefit plans invested in the Fund, in connection with the transactions;

(f) If the exercise of any of BNYMC's rights, claims or causes of action in connection with its ownership of the Notes results in BNYMC recovering from the issuer of the Notes, or any third party, an aggregate amount that is more than the sum of:

(i) The purchase price paid for the Notes by BNYMC (i.e., $28.5 million); and

(ii) The interest due on the Notes from and after the date BNYMC purchased the Notes from the Fund, at the rate specified in the Notes, BNYMC will refund such excess amounts promptly to the Fund (after deducting all reasonable expenses incurred in connection with the recovery).

(g) Mellon and its affiliates, as applicable, maintain, or cause to be maintained, for a period of six (6) years from the date of any covered transaction such records as are necessary to enable the persons described below in paragraph (h)(i), to determine whether the conditions of this exemption have been met, except that—

(i) No party in interest with respect to a plan which engages in the covered transactions, other than Mellon and its affiliates, as applicable, shall be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or not available for examination, as required, below, by paragraph (h)(i); and

(ii) A separate prohibited transaction shall not be considered to have occurred solely because due to circumstances beyond the control of Mellon or its affiliate, as applicable, such records are lost or destroyed prior to the end of the six-year period.

(h)(i) Except as provided, below, in paragraph (h)(ii), and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to, above, in paragraph (g) are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the SEC; or

(B) Any fiduciary of any plan that engages in the covered transactions, or any duly authorized employee or representative of such fiduciary; or

(C) Any employer of participants and beneficiaries and any employee organization whose members are covered by a plan that engages in the covered transactions, or any authorized employee or representative of these entities; or

(D) Any participant or beneficiary of a plan that engages in the covered transactions, or duly authorized employee or representative of such participant or beneficiary;

(ii) None of the persons described, above, in paragraph (h)(i)(B)–(D) shall be authorized to examine trade secrets of Mellon, or commercial or financial information which is privileged or confidential; and

(iii) Should Mellon refuse to disclose information on the basis that such information is exempt from disclosure, Mellon shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) published on July 8, 2008 at 73 FR 39177.

The Department received no substantive written comments with respect to the Notice. The Department received a clarification from the Applicant regarding the number of direct investors in the Fund as of January 17, 2008, as was stated in the Summary of Facts and Representations and the Notice to Interested Persons sections of the Notice. The Applicant stated that due to an inadvertent error, its submission stated that there were 25 direct investors in the fund as of that date, when in fact there were actually 24.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Lloyd of the Department, telephone (202) 693–8554. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describe all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 19th day of September 2008.

Ivan Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. E8–22486 Filed 9–24–08; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Veterans' Employment and Training

The Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO); Notice of Open Meeting

The Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO) was established pursuant to Title II of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006 (Pub. L. 109–233) and Section 9 of the Federal Advisory Committee Act (FACA) (Pub. L. 92–462, Title 5 U.S.C. app. II). The authority of the ACVETEO is codified in Title 38 U.S. Code, Section 4110.

The ACVETEO is responsible for assessing employment and training needs of veterans; determining the extent to which the programs and activities of the U.S. Department of Labor meet these needs; and assisting to conduct outreach to employers seeking to hire veterans. The ACVETEO will conduct a business meeting on Wednesday, October 22, from 7:30 a.m. to 2 p.m., at the offices of The Home Depot, USA, at 2455 Paces Ferry Road, C–21 Large Conference Room, Atlanta, Georgia. The ACVETEO will discuss programs to assist veterans seeking employment and to raise employer awareness as to the advantages of hiring veterans, with special emphasis on employer outreach and wounded and injured veterans.

Individuals needing special accommodations should notify Bill Offutt at (202) 693–4717 by October 13, 2008.

Signed in Washington, DC, this 19th day of September, 2008.

Charles S. Ciccolella,

Assistant Secretary, Veterans' Employment and Training Service.

[FR Doc. E8–22514 Filed 9–24–08; 8:45 am]

BILLING CODE 4510–79–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before October 27, 2008. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: request.schedule@nara.gov.

Fax: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML),

National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. *Telephone:* 301–837–1539. *E-mail: records.mgt@nara.gov*.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1228.24(b)(3).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Natural Resources Conservation Service (N1–114–08–2, 1 item, 1 temporary item). Master file associated with an electronic information system that provides information supporting the planning and application of conservation on working lands.

2. Department of Agriculture, Natural Resources Conservation Service (N1–114–08–3, 1 item, 1 temporary item). Master file associated with an electronic information system that provides assistance to land owners and managers in regard to conservation planning and technical consultation, conservation implementation, natural resources technology, and financial support.

3. Department of Commerce, National Oceanic and Atmospheric Administration (N1–370–08–1, 1 item, 1 temporary item). National Oceanic and Atmospheric Administration Diving Center Diver Training and Certification System database.

4. Department of Education, Agency-wide (N1–441–08–1, 4 items, 3 temporary items). The records are related to Department-sponsored national and international conferences and conventions and include plans, announcements, invitations, agenda, Web site, papers presented, summaries, evaluations, resolutions, and final reports. Proposed for permanent retention are records related to significant conferences and conventions that may involve public scrutiny.

5. Department of Education, Agency-wide (N1–441–08–3, 2 items, 1 temporary item). The records consist of reports to Congress and/or the President in accordance with mandates of Department-related legislation and include the working files of the reports presenting objectives, accomplishments, evaluation or study results, and summaries of education problems. Proposed for permanent retention are the final reports.

6. Department of Education, Agency-wide (N1–441–08–13, 2 items, 2 temporary items). General correspondence files, including routine incoming and outgoing correspondence and memoranda with enclosures relating to the day-to-day activities of the office.

7. Department of Education, Agency-wide (N1–441–08–14, 4 items, 3 temporary items). Calendars, appointment books, schedules, logs, diaries, handwritten notes and other records documenting substantive communications and appointments for non-senior officials. Proposed for permanent retention are recordkeeping copies of these records for senior officials.

8. Department of Education, Office of Hearings and Appeals (N1–441–08–15, 3 items, 3 temporary items). Administrative adjudication case files and attorney working files relating to such matters as administrative appeals for violations, fines, and misappropriations of Federal funds; final program review determinations; final audit determinations; grant paybacks; and termination of institutions' participation in Federal student aid programs. Records include correspondence, motions, briefs, orders, and decisions.

9. Department of Homeland Security, National Protection and Programs Directorate (N1–563–08–34, 1 item, 1 temporary item). Master file for the Automated Biometric Identification System, which collects biometric and biographic data used to establish an individual's identity during an immigration and border management encounter or other encounters with the agency. These data were approved for disposal in a previous schedule.

10. Department of Housing and Urban Development, Office of Multifamily Housing (N1–207–08–4, 4 items, 4 temporary items). Master files and outputs of an electronic information system which contains information about low income rental housing contracts.

11. Department of Justice, Agency-wide (N1–60–08–28, 4 items, 4 temporary items). Inputs and master file for data in the Civil Applicant System, an electronic fingerprint submission system used as part of new employee and contractor background investigations.

12. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (N1–436–08–10, 1 item, 1 temporary item). Master file of the Laboratory Information Management System, which tracks evidence submitted to the laboratory for examination.

13. Department of Justice, Federal Bureau of Investigation (N1–65–08–21, 5 items, 5 temporary items). Records of the Strategic Information and Operations Center, including its daily log and journal.

14. Department of Labor, Benefits Review Board (N1–174–08–1, 6 items, 4 temporary items). Records of the Benefits Review Board, including non-record copy of official case file material, reference files, and general and miscellaneous files. Also included are the Adjudicatory Board's monthly and quarterly production reports. Proposed for permanent retention are recordkeeping copies of decisions and orders and the Adjudicatory Board's annual report.

15. Department of State, Bureau of Overseas Buildings Operations (N1–59–08–14, 3 items, 3 temporary items). Records of the Office of Human Resources, including the master file of the Personnel Administration Security System, a personnel management system, and personnel files for contractors and transferred or separated employees.

16. Department of Transportation, Federal Railroad Administration (N1–399–08–6, 2 items, 2 temporary items). Master file and outputs of an electronic information system used to provide ready access to frequently used agency information in a public forum format.

17. Department of the Treasury, Departmental Offices (N1–56–08–3, 5 items, 5 temporary items). Master files of the Financial Analysis and Reporting System, which is a consolidated reporting tool for financial, performance, and management data.

18. Federal Communications Commission, Office of Public Safety and Homeland Security (N1–173–08–7, 5 items, 5 temporary items). Records relating to the Policy Division's enforcement of the Communications Assistance for Law Enforcement Act. Included are policy and procedure filings, permit filings, monitoring reports, as well as the master file of an electronic information system used to monitor compliance of telecommunications carriers with the act.

Dated: September 19, 2008.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. E8–22566 Filed 9–24–08; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Senior Executive Service (SES) Performance Review Board; Members

AGENCY: National Archives and Records Administration.

ACTION: Notice; SES Performance Review Board.

SUMMARY: Notice is hereby given of the appointment of members of the National Archives and Records Administration (NARA) Performance Review Board.

DATES: *Effective Date:* This appointment is effective on September 25, 2008.

FOR FURTHER INFORMATION CONTACT: Steven G. Rappold, Human Resources Services Division (NAH), National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740–6001, (301) 837–2084.

SUPPLEMENTARY INFORMATION: Section 4314(c) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES Performance Review Boards. The Board shall review the initial appraisal of a senior executive's performance by the supervisor and recommend final action to the appointing authority regarding matters related to senior executive performance.

The members of the Performance Review Board for the National Archives and Records Administration are: Adrienne C. Thomas, Deputy Archivist of the United States, Michael J. Kurtz, Assistant Archivist for Records Services—Washington, DC, and Martha A. Morphy, Assistant Archivist for Information Services. These appointments supersede all previous appointments.

Dated: September 22, 2008.

Allen Weinstein,

Archivist of the United States.

[FR Doc. E8–22684 Filed 9–24–08; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2008–0358]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on June 30, 2008.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* Voluntary Reporting of Performance Indicators.

3. *Current OMB approval number:* 3150–0195.

4. *The form number if applicable:* NA.

5. *How often the collection is required:* Quarterly.

6. *Who will be required or asked to report:* Power reactor licensees.

7. *An estimate of the number of annual responses:* 416.

8. *The estimated number of annual respondents:* 104.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* Approximately 84,500 hours (83,200 reporting hours plus 1,300 recordkeeping hours for 26 recordkeepers).

10. *Abstract:* As part of a joint industry-NRC initiative, the NRC receives information submitted voluntarily by power reactor licensees regarding selected performance attributes known as performance indicators (PIs). PIs are objective measures of the performance of licensee systems or programs. The NRC's reactor oversight process uses PI information, along with the results of inspections, as the basis for NRC conclusions regarding plant performance and necessary regulatory response. Licensees transmit PIs electronically to reduce burden on themselves and the NRC.

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

Comments and questions should be directed to the OMB reviewer listed below by October 27, 2008. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Nathan J. Frey, Office of Information and Regulatory Affairs (3150–0195), NEOB–10202, Office of

Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Nathan_J._Frey@omb.eop.gov* or submitted by telephone at (202) 395–7345.

The NRC Clearance Officer is Russell Nichols, (301) 415–6874.

Dated at Rockville, Maryland, this 18th day of September, 2008.

For the Nuclear Regulatory Commission.

Gregory Trussell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E8–22531 Filed 9–24–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Issuance of Regulatory Guide

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Regulatory Guide 10.7, Revision 2.

FOR FURTHER INFORMATION CONTACT: Mark Orr, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6373 or e-mail to *Mark.Orr@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing a revision to an existing guide in the agency's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 2 of Regulatory Guide 10.7, ''Guide for the Preparation of Applications for Licenses for Laboratory and Industrial Use of Small Quantities of Byproduct Material,'' was issued with a temporary identification as Draft Regulatory Guide, DG–0017. This guide directs the reader to the type of information needed by the NRC staff to evaluate an application for a specific license for laboratories and industries to use megabecquerel (MBq) (millicurie (mCi)) quantities of byproduct material (reactor- or accelerator-produced radionuclides).

The regulatory framework that the NRC has established for laboratory and industrial use of small quantities of byproduct material is in Title 10, Part 30, ''Rules of General Applicability to Domestic Licensing of Byproduct Material,'' of the *Code of Federal Regulations* (10 CFR part 30).

This regulatory guide endorses the methods and procedures for applying for a license for laboratory and industrial use of small quantities of byproduct material contained in the current revisions of NUREG–1556, Volume 7, ''Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Academic, Research and Development, and Other Licenses of Limited Scope'' and NUREG–1556, Volume 12, ''Consolidated Guidance about Material Licenses: Program-Specific Guidance About Possession and Licenses for Manufacturing and Distribution,'' as a process that the NRC staff finds acceptable.

II. Further Information

In April 2008, DG–0017 was published with a public comment period of 60 days from the issuance of the guide. No comments were received and the public comment period closed on June 30, 2008. Electronic copies of Regulatory Guide 10.7, Revision 2 are available through the NRC's public Web site under ''Regulatory Guides'' at *http://www.nrc.gov/reading-rm/doc-collections/.*

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852–2738. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4209, by fax at (301) 415–3548, and by e-mail to *pdr.resource@nrc.gov.*

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 18th day of September, 2008.

For the Nuclear Regulatory Commission.

Stephen C. O'Connor,

Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. E8–22532 Filed 9–24–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Issuance of Regulatory Guide

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Regulatory Guide 10.9, Revision 2.

FOR FURTHER INFORMATION CONTACT: Mark Orr, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6373 or e-mail to *Mark.Orr@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing a revision to an existing guide in the agency's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 2 of Regulatory Guide 10.9, ''Guide for the Preparation of Applications for the Use of Self-Contained Dry Source-Storage Gamma Irradiators,'' was issued with a temporary identification as Draft Regulatory Guide, DG–0019. This regulatory guide directs the reader to the type of information acceptable to the NRC staff for review of an application for the use of a self-contained dry source-storage gamma irradiator. Title 10, Part 36, ''Licenses and Radiation Safety Requirements for Irradiators,'' of the *Code of Federal Regulations* (10 CFR Part 36) contains the licensing, design, and radiation safety requirements for irradiators. In addition, licensees and applicants may be subject to portions of the requirements in 10 CFR Part 30, ''Rules of General Applicability to Domestic Licensing of Byproduct Material,'' and 10 CFR Part 20, ''Standards for Protection Against Radiation.''

This regulatory guide endorses the methods and procedures describing how to apply for a license to use a self-contained dry source-storage gamma irradiator contained in the current revision of NUREG 1556, Volume 5, ''Consolidated Guidance about Material Licenses: Program-Specific Guidance

about Self-Shielded Irradiator Licenses,'' as a process that the NRC staff finds acceptable for meeting the regulatory requirements.

II. Further Information

In April 2008, DG–0019 was published with a public comment period of 60 days from the issuance of the guide. No comments were received and the public comment period closed on June 30, 2008. Electronic copies of Regulatory Guide 10.9, Revision 2 are available through the NRC's public Web site under ''Regulatory Guides'' at *http://www.nrc.gov/reading-rm/doc-collections/.*

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852–2738. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4209, by fax at (301) 415–3548, and by e-mail to *pdr.resource@nrc.gov.*

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 18th day of September 2008.

For the Nuclear Regulatory Commission.

Stephen C. O'Connor,

Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. E8–22534 Filed 9–24–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–022]

Notice of License Termination CBS Test Reactor Located at Waltz Mill Site, Madison, PA

Introduction

The U.S. Nuclear Regulatory Commission (NRC) is noticing the granting of an exemption from 10 CFR 50.82(b)(6)(ii), and the related termination of Facility Operating License No. TR–02, held by CBS for the test reactor (TR) located on the Waltz Mill Site in Madison, PA. CBS requested this action in a letter to NRC dated December 6, 2007 (ML073440024). As discussed below, Westinghouse Electric Company, LLC (Westinghouse) held NRC materials license SNM–770, a license covering the entire Waltz Mill site on which the former TR was located. The granting of this exemption and the termination of the TR–02 license is administrative in nature.

Background

The initial license for the TR was issued on June 19, 1959. Reactor operation permanently ceased following an accident in 1960. On March 25, 1963, the license was amended to allow only possession of special nuclear material but not reactor operation. A Decommissioning Plan (DP) for the TR was submitted on July 27, 1997, and was approved on September 30, 1998.

In the context of facilitating the resolution of a then-pending arbitration dispute regarding the Waltz Mill site between CBS and Westinghouse, the NRC, by letter dated March 17, 2006 (ML060750730), advised the parties that a request for an exemption from 10 CFR 50.82(b)(6)(ii) should be submitted jointly by CBS and Westinghouse, or by CBS with concurrence or an affidavit from Westinghouse, stating Westinghouse's willingness to accept the TR facility in the condition it was left in by CBS. This guidance further stated that the NRC would terminate the TR–2 license when: (1) The SNM–770 license was amended to accept the transfer of all residual radioactive materials, equipment and structures associated with the TR–2 license; and, (2) the NRC's requirements for terminating non-power reactor licenses had been satisfied. The arbitration case between CBS and Westinghouse resulted in a final arbitration opinion and award (American Arbitration Association Case No. 16Y 192 00937 02 dated July 20, 2007). In August 2007, CBS reached a monetary settlement with Westinghouse regarding the completion of decommissioning activities at TR–2.

In a letter dated December 6, 2007, Westinghouse requested that its SNM–770 license be amended to accept the TR–2 radioactive materials, structures, and equipment (ML073620136). In this letter, Westinghouse acknowledged that it will have the sole responsibility for satisfying the NRC's decommissioning requirements applicable to the Waltz Mill site, including requirements applicable to the radioactive materials, structures, and equipment associated with the former TR.

On March 20, 2008, NRC conducted an inspection of the Waltz Mill site for the purpose of assessing the transfer of all residual radioactive material, equipment, and structures from the TR–2 license to Westinghouse's SNM–770 license. No violations were identified during the course of the inspection. On March 26, 2008, the requested amendment was issued authorizing Westinghouse under its license to take possession of all remaining radioactive material, structures and equipment associated with the TR–2 facility. With this amendment to the SNM–770 license, the need for the separate TR–2 license ended. With the termination of the TR–2 license, the SNM–770 license was the only NRC license in effect for radioactive materials on the Waltz Mill Site. On March 31, 2008, the State of Pennsylvania became an NRC Agreement State. Subsequently, the SNM–770 license was re-issued by Pennsylvania as license PA 1053S.

Discussion

A. Requirements for Terminating Non-Power Reactor Licenses

The NRC's regulations in 10 CFR 50.82(b)(6) provide that the Commission will terminate a non-power reactor license if it determines that the decommissioning has been performed in accordance with the approved decommissioning plan, and the terminal radiation survey and associated documentation demonstrate that the facility and site are suitable for release in accordance with Subpart E of 10 CFR part 20.

(1) Compliance with the Decommissioning Plan (10 CFR 50.82(b)(6)(i)) As stated above, the NRC approved the TR–2 DP in 1998. DP Revision 1 (the only revision) revised the method for removing the pressure vessel from the TR–2 containment building. The reactor component and equipment removal actions required by the TR–2 DP have been successfully completed. In its March 2006 guidance letter, the NRC advised CBS that the only actions then needed to complete implementation of the TR–2 DP were: (1) Provide documentation showing that the remaining radioactive materials associated with the TR–2 facility would be transferred to the SNM–770 License; and (2) issuance of a license amendment to the SNM–770 License authorizing the transfer of this material. Those actions have now been taken and implementation of the TR–2 DP is thus complete. Accordingly, the NRC finds that the requirements of 10 CFR 50.82(b)(6)(i) have been met.

(2) Terminal Radiation Survey and Associated Documentation (10 CFR 50.82(b)(6)(ii))

In addition to showing that decommissioning has been performed in accordance with the approved DP, a radiation survey and associated documentation must show that the facility and site are suitable for release in accordance with Subpart E of 10 CFR Part 20 before a non-power reactor license may be terminated. This is the

requirement from which CBS seeks an exemption in its December 6, 2007, submittal.

Therein, CBS notes that the purpose of the approved DP was to dismantle and remove TR components to the point that there would no longer be a utilization (reactor) facility remaining on the site. These actions would then allow the residual radioactive materials, structures, and equipment associated with the former TR to be transferred to the Westinghouse SNM–770 materials license for further remediation to the extent necessary. After all principal licensed activities at the Waltz Mill Site cease, the residual radioactive materials, structures, and equipment associated with the former TR, along with other buildings and lands covered by their existing license, will be decommissioned by Westinghouse in accordance with the State of Pennsylvania's requirements. As discussed below, the NRC finds that the requested exemption is warranted.

B. Requirements for Granting Exemptions From 10 CFR Part 50

Pursuant to 10 CFR 50.12(a)(1), the NRC must find that granting the requested exemption is authorized by law, will not present any undue risk to the public health and safety and would be consistent with the common defense and security. Because the TR–2 radioactive materials will remain under an NRC's Agreement State's License (PA–1053S) held by Westinghouse, they will be fully subject to appropriate regulatory authority and control. Full decommissioning at the Waltz Mill Site may safely be deferred until such time that all licensed activities there cease. The NRC thus finds that the requirements of 10 CFR 50.12(a)(1) are met.

Pursuant to 10 CFR 50.12(a)(2), the NRC must also find, in granting any exemption, that at least one of several enumerated ''special circumstances'' are present. In this regard, CBS maintains that the special circumstance here is that the application of 10 CFR 52.82(b)(6)(ii) to this case is unnecessary to achieve the underlying purpose of the rule, which is to provide for safe decommissioning and license termination. The NRC agrees, and finds that CBS has met the requirements of 10 CFR 50.12(a)(2)(ii) for granting an exemption. The basis for this finding is that Westinghouse has assumed complete responsibility for the safe decommissioning of the Waltz Mill Site, initially under its materials license SNM–770, and now under PA–1053S.

An environmental assessment does not need to be performed as this action falls within the class of actions categorically excluded by 10 CFR 51.22(c)(11). The proposed action is administrative and procedural in nature. NRC staff has evaluated the granting of this exemption request and has determined the granting of the exemption is consistent with the staff's March 17, 2006 letter, and that the proposed action to terminate the license has also occurred in accordance within the guidance of the staff's March 17th letter.

Conclusion

The NRC is granting an exemption from 10 CFR 50.82(b)(6)(ii) and is terminating the license of the TR following the transfer of the radioactive materials, structures and equipment of the TR to Westinghouse LLC, the holder of the PA–1053S license for the remainder of the Waltz Mill Site. This is in accordance with the 2007 arbitration opinion and award.

With the SNM–770 license amended and transferred to the State of Pennsylvania and the TR–2 license terminated, the PA–1053S license will be the only license in effect for radioactive materials at the Waltz Mill Site. Westinghouse, as the remaining licensee on the Site, will now be solely responsible for the safe and environmentally acceptable possession and management of radioactive materials on the Waltz Mill Site, and the later remediation and decommissioning of the Waltz Mill Site.

For further details with respect to the above action, see CBS's letter dated December 6, 2007 and the NRC's letter to the CBS Corporation terminating the TR–2 license (ML081330398). The above referenced documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR) at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/readingrm/adams.html.* Persons who do not have access to ADAMS or who have problems in accessing the documents in ADAMS should call the NRC PDR reference staff at 1–800–397–4209 or 301–415–4737 or e-mail *pdr@nrc.gov*.

Dated at Rockville, Maryland this the 19th day of September 2008.

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. E8–22533 Filed 9–24–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Memorandum of Understanding Between U.S. Army Corps of Engineers and U.S. Nuclear Regulatory Commission on Environmental Reviews Related to the Issuance of Authorizations To Construct and Operate Nuclear Power Plants

SUMMARY: On September 12, 2008, the U.S. Nuclear Regulatory Commission (NRC) and the U.S. Army Corps of Engineers (Corps) signed a Memorandum of Understanding (MOU) which establishes a framework for early coordination and participation among the agencies. The MOU is an effort to facilitate the timely review of proposed nuclear power plant applications and it establishes a commitment to early agency involvement; proactive participation and informal communication throughout the review process; sharing of information gathered, considered and relied upon by each agency; and, if requested, interagency participation in public hearings. Interagency cooperation under the MOU will facilitate each agency's compliance with its review responsibilities under the National Environmental Policy Act and other related statutes with respect to the authorizations required to construct and operate nuclear power plants licensed by the NRC. It is anticipated that the Corps will act as a cooperating agency in most circumstances; however, the MOU does not preclude different forms of coordination (*e.g.*, Corps participation as a consulting agency).

FOR FURTHER INFORMATION CONTACT: Richard Emch, Environmental Technical Support Branch, Division of Site and Environmental Reviews, Office of New Reactors, U.S. Nuclear Regulatory Commission, Rockville, MD 20854, 301–415–1590, or Paul Michalak, Environmental Projects Branch 2, Division of Site and Environmental Reviews, Office of New Reactors, U.S. Nuclear Regulatory Commission, Rockville, MD 20854, 301–415–7612.

The MOU between the NRC and the Corps is entitled ''Memorandum of Understanding between U.S. Army Corps of Engineers and U.S. Nuclear Regulatory Commission on Environmental Reviews Related to the Issuance of Authorizations to Construct and Operate Nuclear Power Plants'' and is attached to this notice. The MOU was signed by the Assistant Secretary of the Army (Civil Works) of the U.S. Army Corps of Engineers, and by the Executive Director for Operations for the U.S. Nuclear Regulatory Commission on September 12, 2008.

Dated at Rockville, Maryland, this 19th day of September, 2008.

For the Nuclear Regulatory Commission.

Scott C. Flanders,

Director, Division of Site and Environmental Reviews, Office of New Reactors.

Memorandum of Understanding Between U.S. Army Corps of Engineers and U.S. Nuclear Regulatory Commission on Environmental Reviews Related to the Issuance of Authorizations to Construct and Operate Nuclear Power Plants

The U.S. Army Corps of Engineers (Corps) and the U.S. Nuclear Regulatory Commission (NRC), as parties to this Memorandum of Understanding (MOU), hereby acknowledge and declare as follows:

I. Introduction

The Corps and the NRC developed this MOU to streamline the respective regulatory processes associated with the authorizations required to construct and operate nuclear power plants.

II. Purpose

The purpose of this MOU is to establish a framework for early coordination and participation among the signatories to this agreement to ensure the timely review of proposed nuclear power plant applications. Cooperation among the MOU signatories will ensure each agency's review responsibilities under the National Environmental Policy Act (NEPA) and other related statutes are met in connection with the authorizations required to construct and operate nuclear power plants licensed by the NRC. Both parties anticipate that the Corps will act as a cooperating agency in most circumstances. However, there may be some circumstances where both agencies will be better served by a different form of coordination. This MOU does not preclude such arrangements.

III. Statutory Background

A. *National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)* requires all agencies of the Federal Government to use a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences in planning and decisionmaking that may have an impact on man's environment. Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved.

B. *Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)* requires authorization from the Secretary of the Army, acting through the Corps, for the construction of any structure in or over any navigable water of the United States. Structures or work outside the limits defined for navigable waters of the United States require a Section 10 permit if the structure or work affects the course, location, or condition of the water body. The law applies to any dredging or disposal of dredged materials, excavation, filling, re-channelization, or any other modification of a navigable water of the United States, and it applies to all structures, from the smallest floating dock to the largest commercial undertaking. It further includes, without limitation, any wharf, dolphin, weir, boom breakwater, jetty, groin, bank protection (e.g., riprap, revetment, bulkhead), mooring structure such as a piling, aerial or sub-aqueous power transmission line, intake or outfall pipe, permanently moored floating vessel, tunnel, artificial canal, boat ramp, aid to navigation, and any other permanent or semipermanent obstacle or obstruction.

C. *Section 404 Clean Water Act (CWA) (33 U.S.C. 1344)* requires authorization from the Secretary of the Army, acting through the Corps, for the discharge of dredged or fill material into all waters of the United States, including wetlands. Discharges of fill material generally include, without limitation, placement of fill that is necessary for the construction of any structure or impoundment requiring rock, sand, dirt, or other material for its construction; site-development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; dams and dikes; artificial islands; property protection or reclamation devices such as riprap, groins, seawalls, breakwaters, and revetments; beach nourishment; levees; fill for intake and outfall pipes and sub-aqueous utility lines; fill associated with the creation of ponds; and any other work involving the discharge of fill or dredged material. A Corps permit is required whether the work is permanent or temporary. Examples of temporary discharges include dewatering of dredged material prior to final disposal, and temporary fills for access roadways, cofferdams, and storage and work areas.

D. *Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413)*, as amended, requires authorization from the Secretary of the Army, acting through the Corps, for the transportation of dredged material for the purpose of dumping it in ocean waters. Discharges of dredged or fill materials into territorial seas also require authorization under Section 404 of the CWA.

E. *Outer Continental Shelf Lands Act (43 U.S.C. 1333)* extends the authority of the Secretary of the Army, acting through the Corps, to the prevention of obstruction to navigation in the navigable waters of the United States due to the construction of artificial islands and fixed structures on the outer continental shelf beyond the territorial sea.

F. *Energy Reorganization Act of 1974 (Pub. L. 93–438 (88 Stat. 1233))* abolished the Atomic Energy Commission, and Section 201 of that Act created the NRC and transferred to the NRC all the licensing and related regulatory functions of the Atomic Energy Commission. Pursuant to the Energy Reorganization Act of 1974; Chapters 6, 7, 8, 10, and 16 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.;* and the rules and regulations issued pursuant thereto, the NRC is authorized to license and regulate the construction and operation of, among other things, nuclear power plants from the standpoint of the common defense and security and public health and safety.

Roles and Responsibilities

NRC. The NRC licenses nuclear power plants in accordance with its regulations such that the utilization of special nuclear material will be in accord with the common defense and security and will provide adequate protection to the health and safety of the public.

Corps. The Corps administers a regulatory program to protect the Nation's aquatic resources, including wetlands, under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the CWA. Proposed nuclear power plants may require one or more permits from the Corps under these statutes.

NEPA Lead Federal Agency. NEPA is the overarching environmental statute requiring the identification of impacts to the quality of the human environment, consideration of alternatives, and public involvement in the process. A primary objective of NEPA is to ensure that environmental information is available to public officials and citizens before irretrievable commitments of resources are made. This agreement supports these principles, and the signatory Federal agencies acknowledge their respective responsibilities for complying with the requirements of NEPA. To prevent the duplication of efforts by Federal agencies and to encourage information sharing and integration of agency processes, NEPA allows for the designation of a lead Federal agency for the preparation of environmental impact statements (EISs) when EISs are required. Other agencies that have an action on the same project may serve as cooperating agencies on the EIS.[1]

The issuance by the NRC of a license to construct and operate a nuclear power plant is an action that normally requires the preparation of an EIS.[2] As the agency with the approval/disapproval authority for the licensing of nuclear power plants, the NRC shall serve as the lead agency for the preparation of the EIS. This MOU encourages early involvement between the NRC and the Corps and with the public and other government agencies during the NEPA evaluation process.

This MOU acknowledges that it is critically important that the NRC receive project-

[1] 10 CFR Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions—Scope''; 40 CFR 1501.5 ''NEPA and Agency Planning—Lead Agencies''; 40 CFR 1501.6, ''NEPA and Agency Planning—Cooperating Agencies.''

[2] 10 CFR 51.20, ''Criteria for and Identification of Licensing and Regulatory Actions Requiring Environmental Impact Statements.''

specific information on waters of the United States, including wetlands, from the Corps at key stages of project development to foster an efficient procedure to develop documentation to meet both agencies' disclosure and decisionmaking requirements. This Agreement establishes a process to facilitate the timely licensing and permitting of nuclear power plants, whereby both agencies will do the following:

- Work together and with applicants and other stakeholders, as appropriate, including before complete applications for the necessary authorizations are filed.
- Identify and resolve issues as quickly as possible.
- Attempt to build a consensus among governmental agencies and their stakeholders.
- Provide for the effective and efficient environmental review for nuclear power plants.

Project purpose and need coordination. As the lead agency under NEPA responsible for the preparation of the analysis and decisions for the approval of new and expanded nuclear power plants, the NRC is responsible for determining the purpose and need of the energy project for purposes of the NRC's NEPA document and the NRC licensing process.[3] The NRC should coordinate early on the scope of the NEPA analysis for all activities under Federal purview and ensure that the purpose and need, the suite of alternatives, and the evaluation presented in the NEPA document consider the views of the Corps (e.g., defining project purpose per Section 404 of the CWA [''basic'' for water dependency and ''overall'' for geographic scope of alternative analysis], conducting the Corps'' public interest review, determining the least environmentally damaging practicable alternative under the CWA Section 404(b)(1) Guidelines). The Corps will complete an independent permit decision in carrying out its regulatory responsibilities.

The signatory agencies may develop additional guidance to ensure that the Corps' permit documentation is prepared concurrently with the NEPA process to the maximum extent practicable. When the NRC provides to the Corps its preliminary draft NEPA documents, the Corps shall review and provide written comments on the relevant portions of those documents, as appropriate, in accordance with the timelines established under this MOU. Preliminary draft NRC NEPA documents include advance copies of the purpose, need, and alternatives sections of the NRC NEPA documents, as well as advance copies of the draft and final NEPA documents. Corps reviews of NRC NEPA documents will be completed and coordinated with the NRC as stated in the NRC EIS schedule for that project.

The Corps and the NRC hereby agree to work with each other and with other participating agencies or entities, as appropriate, to ensure that timely decisions are made and that the responsibilities of each agency are met. Specifically, each agency agrees to do the following:

A. Commit to Early Involvement:

1. Conduct an early initial review. As soon as practicable when a prospective applicant or an agency makes a request for involvement in connection with a project under development, each agency will assess its role in the review and issuance of approvals for the project.

a. Identify agency contacts for the proposed project. If a prospective applicant or agency needs assistance in determining regional, local, or project specific contacts, then the identified contacts will assist in identifying additional contacts. The initial agency contacts are the following:

Department of the Army
Office of the Assistant Secretary of the Army (Civil Works),
108 Army Pentagon 2E641,
Washington, DC 20310–0108;

Regulatory Branch,
Headquarters, U.S. Army Corps of Engineers,
441 G Street, NW.,
Washington, DC 20314;

Nuclear Regulatory Commission,
Office of New Reactors,
U.S. Nuclear Regulatory Commission,
Washington, DC 20555–0001;

Division of Site and Environmental Reviews,
Office of New Reactors,
U.S. Nuclear Regulatory Commission,
Washington, DC 20555–0001.

b. Meet with prospective applicants and other agencies, when requested by the prospective applicant, the lead agency, or at its own initiative, to identify areas of potential concern to other agencies and to assess the need for and availability of agency resources to address issues related to the proposed project.

c. Consult with the NRC, as the lead agency, in establishing a schedule. The NRC will notify the Corps as early as possible of upcoming applications for the construction and operation of nuclear power plants and identify those projects that will be subject to this agreement. The lead agency will then, taking into consideration the relative priorities of other projects subject to this agreement, establish a commensurate schedule for the project review process. In establishing this schedule, the NRC and the Corps will strive to ensure that the individual permitting processes and related permit review activities occur on a concurrent, rather than sequential, basis, with the objective of avoiding unnecessary delays in the process and the schedule established by the NRC. If at any point during the consultation process the Corps or the NRC anticipates an inability to comply with the agreed-upon schedule, it will communicate the reason for this inability as soon as possible. The agencies will then work together to help avoid the anticipated delay when appropriate. The NRC will include in any Notice of Intent to Prepare an EIS guidance to the public regarding the process set forth in this Agreement.

B. Proactive participation. After an application is submitted to the NRC, the Corps will do the following:

1. Identify and inform the NRC and the applicant which statutes, regulations, and policies apply to each permit evaluation.

2. Identify the issues and concerns related to the proposed project that need to be addressed in order for the Corps to meet its obligations.

3. Provide the prospective applicant, the applicant, and/or other agency with relevant studies, data (such as maps showing features over which the agency may have jurisdiction), and any other information concerning the status of matters the agency considers relevant (including matters that may be under consideration, such as the results of threatened and endangered species consultation, or essential fish habitat consultation).

4. Identify issues and concerns and attempt to resolve them while draft documentation is being developed.

C. Sharing of data. The agencies will share the information gathered, considered, and relied upon by each of them with all other relevant agencies. Specifically, the NRC and the Corps agree to do the following:

1. Cooperate in the preparation of requests for additional studies or data to avoid duplicative requests and to compile a consistent set of information on which all of the agencies will rely.

2. Cooperate in identifying and developing the information at the level of detail required to complete environmental and cultural resources project review.

The NRC will be responsible for drafting sections and requesting additional information to the extent that the NRC believes the analysis is needed and would normally be required by the NRC if the Corps were not involved. If the Corps believes that additional analysis is needed, but the NRC does not agree that such analysis would be required under the regulatory procedures of the NRC, such analysis will be the responsibility of the Corps.

D. Communicate informally. The agencies agree to informally communicate with each other and other relevant agencies throughout the process to ensure that issues are raised as soon as possible and shared among all agencies. The lead agency will coordinate and share information with all relevant participating agencies.

E. Hearings. On request, each agency will participate in any public hearings[4] [5] held by the other agency. Particularly in the case of NRC hearings, the Corps may provide expert testimony, as required, in those areas or sections covered in the NRC EIS in whose preparation the Corps participated and in those areas of special Corps expertise. The Corps' participation in the NRC hearing process will be consistent with all relevant laws and regulations and coordinated with appropriate District and Division Commanders or their representatives.

[3] 10 CFR Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' Subpart A, ''National Environmental Policy Act—Regulations Implementing Section 102(2).''

[4] 33 CFR 327.3(a)—Public hearing means a public proceeding conducted for the purpose of acquiring information or evidence which will be considered in evaluating a proposed Department of the Army permit action, or Federal project, and which affords the public an opportunity to present their views, opinions, and information on such permit actions or Federal projects.

[5] The Atomic Energy Act requires that a public hearing be held before a construction permit is

V. Administration of the MOU

A. While retaining ultimate responsibility for making determinations and exercising their individual responsibilities in accordance with existing statutory responsibilities, the NRC and the Corps will consult with one another to resolve disputes using existing dispute resolution methods and in accordance with this agreement. If no agreement can be reached, either agency may refer the matter to the Council on Environmental Quality in accordance with 40 CFR 1504, ''Predecision Referrals to the Council of Proposed Federal Actions Determined To Be Environmentally Unsatisfactory.'' Notwithstanding any such referral, the NRC reserves the right to make a final decision on any matter within the NRC's regulatory authority.

B. This MOU may be modified, amended, or terminated upon written request of any party hereto and the subsequent written concurrence of all other participating agencies. Participation in this agreement may be terminated 60 days after providing written notice of such termination to other participating agencies.

C. Acknowledgement that the authority and responsibilities of the parties under their respective jurisdictions are not altered by the MOU.

1. This MOU is intended only to improve the working relationships of the participating agencies in connection with expeditious decisions with regard to nuclear power plant authorizations and is not intended to, nor does it create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by any person or party against the United States, its agencies, its officers, or any other person.

2. This MOU is to be construed in a manner consistent with all effective existing laws and regulations.

3. The MOU neither expands nor is in derogation of those powers and authorities vested in the participating agencies by applicable laws, statutes, or regulations.

4. The terms of this MOU are not intended to be enforceable by any party other than the signatories hereto.

5. The participating agencies intend to fully carry out the terms of this MOU. All provisions in this MOU, however, are subject to available resources. In addition, this MOU does not limit the ability of any of the participating agencies to review and respond to final applications.

6. If an applicant, prospective applicant, or other person requests a correction of information disseminated pursuant to this MOU, as authorized by Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554), the process by which such request will be addressed will be that established by the agency that disseminated the information.

7. This MOU cannot be used to obligate or commit funds or as the basis for the transfer of funds.

8. Nothing in this MOU, in and of itself, requires any signatory agency to enter into any contract, grant, or interagency agreement.

9. All provisions in this MOU are subject to the availability of funds.

Accordingly, the parties have signed this MOU on the dates set forth below, to be effective for all purposes as of the date last signed. The signatures may be executed using counterpart original documents.

September 12, 2008.

John Paul Woodley, Jr.,

Assistant Secretary of the Army (Civil Works).

September 12, 2008.

R. W. Borchardt,

Executive Director for Operations, U.S. Nuclear Regulatory Commission.

[FR Doc. E8–22528 Filed 9–24–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–263]

In the Matter of: Nuclear Management Company, LLC; Northern States Power Company; (Monticello Nuclear Generating Plant); Renewed Facility Operating License No. DPR–22; Order Approving Transfer of License and Conforming Amendment

I.

Northern States Power Company, a Minnesota corporation (NSPM) and Nuclear Management Company, LLC (NMC) are holders of Renewed Facility Operating License No. DPR–22, which authorizes the possession, use, and operation of Monticello Nuclear Generating Plant (Monticello). NSPM is authorized to possess, and NMC is authorized to use and operate Monticello. The facility is located at the licensees' site in Wright County, Minnesota.

II.

By letter dated April 16, 2008, as supplemented by letter dated August 6, 2008, NSPM and NMC requested approval for NSPM to acquire from NMC the operating authority of the facility following approval of the proposed license transfer. Subsequently, NSPM will be responsible for the operation and maintenance of MNGP. NMC will be integrated into the current NSPM organization, which would be the sole entity holding both the ownership and operating authority of MNGP.

The applicants also requested approval of a conforming license amendment that would replace references to NMC in the license with references to NSPM to reflect the transfer of operating authority under the applicable conditions and authorizations included in the Monticello license. The applicants proposed no physical changes to the facility or operational changes. After completion of the proposed transfer, NSPM would become the operator, as well as continue to be the owner of the facility.

Approval of the transfer of the licensed operating authority and conforming license amendment is requested by the applicants pursuant to Sections 50.80 and 50.90 of Title 10 of the *Code of Federal Regulations* (10 CFR). Notice of the request for approval and opportunity for a hearing were published in the **Federal Register** on June 5, 2008 (73 FR 32057). No comments and no petitions to intervene were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the Nuclear Regulatory Commission (NRC) staff has determined that NSPM is qualified to continue to hold the ownership interests in the facility, and is qualified to acquire and hold the operating authority previously held by NMC, and that the transfer of the operating interests in the facility to NSPM described in the application is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendment will be in accordance with 10 CFR Part 51 of the

issued for a nuclear power plant. The hearing will be conducted by the Commission or by a presiding officer designated by the Commission pursuant to 10 CFR 2.313, ''Designation of Presiding Officer, Disqualification, Unavailability, and Substitution.''

Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by the NRC staff's safety evaluation dated the same day as this Order.

III.

Accordingly, pursuant to sections 161b, 161i, and 184 of the Act, 42 U.S.C. sections 2201(b), 2201(i), and 2234; and 10 CFR 50.80, it is hereby ordered that the transfer of the operating authority of the license, as described herein, from NMC to NSPM is approved.

It is further ordered that, consistent with 10 CFR 2.1315(b), the license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject direct license transfer is approved. The amendment shall be issued and made effective at the time the proposed direct license transfer is completed.

It is further ordered, that NMC and NSPM shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of the date of closing of the transfer of NMC's operating interests in Monticello at least 1 business day prior to closing. Should the transfer of the license not be completed within one year of this Order's date of issuance, this Order shall become null and void, provided, however, that upon written application and for good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated April 16, 2008, the supplement dated August 6, 2008, and the safety evaluation dated the same day as this Order, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Room O–1 F21 (First Floor), Rockville, Maryland and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland this 15th day of September, 2008.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E8–22529 Filed 9–24–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–282, 50–306, 72–10]

In the Matter of: Nuclear Management Company, LLC; License Nos DPR–42, DPR–60, SNM–2506; Northern States Power Company; (Prairie Island Nuclear Generating Plant, Units 1 and 2) Order Approving Transfer of License and Conforming Amendment

I.

Northern States Power Company, a Minnesota corporation (NSPM) and Nuclear Management Company, LLC (NMC) are holders of Facility Operating License No. DPR–42 and DPR–60, which authorize the possession, use, and operation of Prairie Island Nuclear Generating Plant (Prairie Island), Units 1 and 2, and Materials License SNM–2506, which authorizes the possession, use, and operation of the Prairie Island Independent Spent Fuel Storage Installation (ISFSI). NSPM is authorized to possess, and NMC is authorized to use and operate Prairie Island and the Prairie Island ISFSI. The facilities are located at the licensees' site in Goodhue County, Minnesota.

II.

By letter dated April 16, 2008, as supplemented by letter dated August 6, 2008, NSPM and NMC requested approval for NSPM to acquire the operating authority of the facilities from NMC following approval of the proposed license transfer. Subsequently, NSPM will be responsible for the operation and maintenance of Prairie Island and the Prairie Island ISFSI. NMC will be integrated into the current NSPM organization, which would be the sole entity holding both the ownership and operating authority of the facilities.

The applicants also requested approval of conforming license amendments that would replace references to NMC in the licenses with references to NSPM to reflect the transfer of operating authority under the applicable conditions and authorizations included in the Prairie Island licenses. The applicants proposed no physical changes to the facilities or operational changes. After completion of the proposed transfer, NSPM would become the operator, as well as continue to be the owner of the facilities.

Approval of the transfer of the licensed operating authority and conforming license amendments are requested by the applicants pursuant to Sections 50.80 and 50.90 of Title 10 of the *Code of Federal Regulations* (10 CFR). Notice of the request for approval and opportunity for a hearing were published in the **Federal Register** on June 5, 2008 (73 FR 32055). No comments and no petitions to intervene were received.

Pursuant to 10 CFR 50.80 and 10 CFR 72.50, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that NSPM is qualified to continue to hold the ownership interests in the facilities, and is qualified to acquire and hold the operating authority previously held by NMC, and that the transfer of the operating interests in the facilities to NSPM described in the application is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the applications for the proposed license amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facilities will operate in conformity with the applications, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by NRC staff's safety evaluation dated the same day as this Order.

III.

Accordingly, pursuant to sections 161b, 161i, and 184 of the Act, 42 U.S.C. Sections 2201(b), 2201(i), and 2234; and 10 CFR 50.80 and 10 CFR 72.50, IT IS HEREBY ORDERED that the transfer of the operating authority of the licenses, as described herein, from NMC to NSPM is approved.

It is further ordered that, consistent with 10 CFR 2.1315(b), the license amendments that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the licenses to reflect the subject direct license transfer are approved. The amendments shall be issued and made effective at the time the proposed direct license transfers are completed.

It is further ordered that NMC and NSPM shall inform the Director of the Office of Nuclear Reactor Regulation, in writing, of the date of closing of the transfer of NMC's operating interests in Prairie Island and the Prairie Island ISFSI at least 1 business day prior to closing. Should the transfer of the licenses not be completed within one year of this Order's date of issuance, this Order shall become null and void, provided, however, that upon written application and for good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated April 16, 2008, the supplement dated August 6, 2008, and the safety evaluation dated the same date as this Order, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Room O–1 F21 (First Floor), Rockville, Maryland and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland this 15th day of September, 2008.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E8–22530 Filed 9–24–08; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Notice

ACTION: Notice to add a new system of records.

SUMMARY: As required under the Privacy Act of 1974, (5 U.S.C. 552a), as amended, the Peace Corps is giving notice of a new system of records, Peace Corps 50th Anniversary Archive.

DATES: This action will be effective without further notice on November 10, 2008 unless comments are received by October 27, 2008 that would result in a contrary determination.

ADDRESSES: You may submit comments by e-mail to *nmiller@peacecorps.gov*. Include Privacy Act System of Records in the subject line of the message. You may also submit comments by mail to Nancy Miller, Office of the General Counsel, Peace Corps, Suite 8200, 1111 20th Street, NW., Washington, DC 20526. Contact Nancy Miller for copies of comments.

FOR FURTHER INFORMATION CONTACT: Nancy Miller, Associate General Counsel, 202–692–2150, *nmiller@peacecorps.gov*.

SUPPLEMENTARY INFORMATION: The Privacy Act, 5 U.S.C. 552a, provides that the public will be given a 30-day period in which to comment on the new system. The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 40-day period in which to review the proposed system. In accordance with 5 U.S.C. 552a, Peace Corps has provided a report on this system to OMB and the Congress. Peace Corps previously submitted this system for public comment, and in response to public comment we have removed the social security number as an identifier in this system.

SYSTEM NAME:

PC–31—Peace Corps 50th Anniversary Archive.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Peace Corps Office of Communications, Peace Corps, 1111 20th St., NW., Washington, DC 20526.

CATEGORY OF INDIVIDUALS COVERED BY THE SYSTEM:

Former Peace Corps volunteers or their next-of-kin who have voluntarily contributed materials to the digital library and members of the public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, e-mail address, telephone number, volunteer ID, country of service, dates of service, volunteer assignment area, descriptive information about items they have voluntarily submitted to the digital library (i.e., personal narratives, stories, digital photographs). Correspondence files related to submissions and requests for information from the database.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Peace Corps Act, 22 U.S.C. 2501, *et seq.*

PURPOSE (S):

To build a collection of stories, historical documents and photographs that help convey the history of Peace Corps and the experiences of former Volunteers, to be used as source material for articles, events and exhibits honoring the 50th anniversary of Peace Corps in 2011.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USERS:

General routine uses A–M apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

We are accepting only electronic submissions of stories and digital photos. Should photographic prints and documents be sent to us, they will be stored in a locked file room in the Peace Corps Office of Communications until they are returned to the submitter after digitization. Name, contact information and service information of contributors will be stored in a password protected computerized database.

RETRIEVABILITY:

By name, country of service, dates of service, volunteer ID, volunteer assignment area, format, and subject(s) of voluntarily submitted materials.

SAFEGUARDS:

Photographic prints, newsletters and journals will be stored in a locked file room in the Peace Corps Office of Communications. Digital records and indexing data will be stored on secure servers. Server access is limited to authorized personnel whose duties require such access.

RETENTION AND DISPOSAL:

Records are permanent per the existing schedule. An extract of the

electronic files, with the contact information and volunteer ID removed for privacy protection, will be retired to the National Archives and Records Administration upon approval of an updated records schedule covering anniversary records.

SYSTEM MANAGER(S) AND ADDRESS:

50th Anniversary Archive Project Manager, Office of Communications, Peace Corps, 1111 20th St., NW., Washington, DC 20526. E-mail: *archive@peacecorps.gov*.

NOTIFICATION PROCEDURE:

Any individual who wants notification that this system of records contains a record about him or her should make a written request to the System Manager. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying documentation. Additional identification may be required in some instances. Complete Peace Corps Privacy Act procedures are set out in 22 CFR part 308.

RECORD ACCESS PROCEDURES:

Any individual who wants access to his or her record should make a written request to the System Manager. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying documentation. Additional identification may be required in some instances. Complete Peace Corps Privacy Act procedures are set out in 22 CFR part 308.

CONTESTING RECORD PROCEDURES:

Any individual who wants to contest the contents of a record should make a written request to the System Manager. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying documentation. Additional identification may be required in some instances. Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete Peace Corps Privacy Act procedures are set out in 22 CFR part 308.

RECORD SOURCE CATEGORIES:

Record subject.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: September 19, 2008.

Carl R. Sosebee,

Acting General Counsel.

[FR Doc. E8–22526 Filed 9–24–08; 8:45 am]

BILLING CODE 6015–01–P

PEACE CORPS

Notice

ACTION: Notice to add a new system of records.

SUMMARY: As required under the Privacy Act of 1974, (5 U.S.C. 552a), as amended, the Peace Corps is giving notice of a new system of records, Volunteer Language Testing Scores System

DATES: This action will be effective without further notice on November 10, 2008 unless comments are received by October 27, 2008 that would result in a contrary determination.

ADDRESSES: You may submit comments by e-mail to *nmiller@peacecorps.gov*. Include Privacy Act System of Records in the subject line of the message. You may also submit comments by mail to Nancy Miller, Office of the General Counsel, Peace Corps, Suite 8200, 1111 20th Street, NW., Washington, DC 20526. Contact Nancy Miller for copies of comments.

FOR FURTHER INFORMATION CONTACT: Nancy Miller, Associate General Counsel, 202–692–2150, *nmiller@peacecorps.gov*.

SUPPLEMENTARY INFORMATION: The Privacy Act, 5 U.S.C. 552a, provides that the public will be given a 30-day period in which to comment on the new system. The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 40-day period in which to review the proposed system. In accordance with 5 U.S.C. 552a, Peace Corps has provided a report on this system to OMB and the Congress. Peace Corps previously submitted this system for public comment, and in response to public comment we have removed the social security number as an identifier in this system.

SYSTEM NAME:

PC–32, Volunteer Language Testing Scores System.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Overseas Training Division, Training and Staff Development Unit, Peace Corps, 1111 20th St., NW., Washington, DC 20526.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any Peace Corps Trainee or currently serving Volunteer.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Volunteer Identification Number, gender, country of service, region of service, date of birth, project type, project name or assigned sector, language background, notes, test date, language code, tester code, length of pre-service training, Educational Testing Services/Teaching of Foreign Language rating, certificate of language proficiency, and reason not tested, if applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Peace Corps Act, 22 U.S.C. 2501 *et seq.*

PURPOSE(S):

To record Educational Testing Services/Teaching of Foreign Language rating of Peace Corps Volunteers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USERS:

General routine uses A–M apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In a computerized database.

RETRIEVABILITY:

By name, region, gender, assigned sector, or date tested.

SAFEGUARDS:

Computer records are maintained in a secure, password-protected computer system.

RETENTION AND DISPOSAL:

Records in the computerized database are kept for seven years after swear in and five years after close of service.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Overseas Training, Center for Field Assistance and Applied Research, 1111 20th St., NW., Washington, DC 20526.

NOTIFICATION PROCEDURE:

Any individual who wants notification that this system of records contains a record about him or her should make a written request to the

System Manager. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying documentation. Additional identification may be required in some instances. Complete Peace Corps Privacy Act procedures are set out in 22 CFR part 308.

RECORD ACCESS PROCEDURES:

Any individual who wants access to his or her record should make a written request to the System Manager. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying documentation. Additional identification may be required in some instances. Complete Peace Corps Privacy Act procedures are set out in 22 CFR part 308.

CONTESTING RECORD PROCEDURES:

Any individual who wants to contest the contents of a record should make a written request to the System Manager. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying documentation. Additional identification may be required in some instances. Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete Peace Corps Privacy Act procedures are set out in 22 CFR part 308.

RECORD SOURCE CATEGORIES:

Record subject and official records of Educational Testing Services/Teaching of Foreign Language rating.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: September 19, 2008.

Carl R. Sosebee,

Acting General Counsel.

[FR Doc. E8–22527 Filed 9–24–08; 8:45 am]

BILLING CODE 6015–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B, and C in the excepted service as required by 5 CFR 6.6 and 213.103.

FOR FURTHER INFORMATION CONTACT: M. Lamary, Group Manager, Executive Resources Services Group, Center for Human Resources, Division for Human Capital Leadership and Merit System Accountability, 202–606–2246.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedules A, B, and C between July 1, 2008, and July 30, 2008. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of July 30 is published each year.

Schedule A

No Schedule A appointments were approved for July 2008.

Schedule B

No Schedule B appointments were approved for July 2008.

Schedule C

The following Schedule C appointments were approved during July 2008.

Section 213.3303 Executive Office of the President

Office of National Drug Control Policy

QQGS80011 Confidential Assistant to the Chief of Staff. Effective July 08, 2008.

QQGS80013 Confidential Assistant to the Associate Director for Public Affairs. Effective July 25, 2008.

QQGS80012 Deputy Press Secretary to the Associate Director for Public Affairs. Effective July 29, 2008.

Section 213.3304 Department of State

DSGS69750 Protocol Officer to the Foreign Affairs Officer (Ceremonials). Effective July 15, 2008.

DSGS69752 Senior Advisor to the Director. Effective July 24, 2008.

DSGS69751 Staff Assistant to the Senior Advisor to the Secretary and White House Liaison. Effective July 29, 2008.

Section 213.3305 Department of the Treasury

DYGS00407 Senior Advisor to the Assistant Secretary for Financial Markets. Effective July 10, 2008.

Section 213.3306 Department of Defense

DDGS17164 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison. Effective July 14, 2008.

DDGS17166 Special Assistant to the Special Assistant to the Secretary of Defense for White House Liaison. Effective July 21, 2008.

DDGS17169 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison. Effective July 28, 2008.

Section 213.3307 Department of the Army

DWGS00097 Special Assistant to the Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) to the Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health). Effective July 03, 2008.

Section 213.3310 Department of Justice

DJGS00134 Confidential Assistant to the Assistant Attorney General, Office of Justice Programs. Effective July 10, 2008.

DJGS00379 Special Assistant to the Director, Office of Public Affairs. Effective July 17, 2008.

DJGS00175 Public Affairs Specialist to the Director, Office of Public Affairs. Effective July 18, 2008.

DJGS00139 Special Assistant to the Director, Community Relations Service. Effective July 23, 2008.

DJGS00197 Press Assistant to the Director, Office of Public Affairs. Effective July 25, 2008.

Section 213.3311 Department of Homeland Security

DMGS00758 Associate Director to the Assistant Secretary for Legislative Affairs. Effective July 03, 2008.

DMGS00651 Press Assistant to the Press Secretary. Effective July 15, 2008.

DMGS00681 Assistant Press Secretary to the Deputy Assistant Secretary for Media Relations. Effective July 15, 2008.

DMGS00694 Confidential Assistant to the General Counsel. Effective July 16, 2008.

Section 213.3312 Department of the Interior

DIGS00116 Special Assistant (Communications and Legislation) to the Deputy Commissioner (Director of External and Intergovernmental Affairs). Effective July 07, 2008.

DIGS01129 Chief of Staff to the Deputy Secretary of the Interior. Effective July 16, 2008.

DIGS01128 Counselor to the Assistant Secretary—Water and Science to the Assistant Secretary for Water and Science. Effective July 24, 2008.

Section 213.3314 Department of Commerce

DCGS00500 Public Affairs Specialist to the Director of Public Affairs. Effective July 03, 2008.
DCGS00506 Public Affairs Specialist to the Director of Public Affairs. Effective July 03, 2008.
DCGS00576 Deputy Director of Advance to the Director of Advance. Effective July 03, 2008.
DCGS60392 Confidential Assistant to the Assistant Secretary and Director General of United States/For Commercial Services. Effective July 03, 2008.
DCGS00358 Chief of Staff for International Trade Administration to the Under Secretary for International Trade. Effective July 18, 2008.
DCGS00424 Director, Office of Legislative Affairs to the Under Secretary Oceans and Atmosphere (Administrator National Oceanic and Atmospheric Administration). Effective July 24, 2008.
DCGS00472 Confidential Assistant to the Executive Director for Trade Promotion and Outreach. Effective July 24, 2008.
DCGS00570 Senior Advisor to the Coordinator to the Coordinator for International Intellectual Property Enforcement. Effective July 24, 2008.
DCGS00520 Special Assistant to the Assistant Secretary for Market Access and Compliance. Effective July 25, 2008.
DCGS00608 Confidential Assistant to the Director, Office of Legislative Affairs. Effective July 25, 2008.
DCGS00619 Confidential Assistant to the Assistant Secretary for Economic Development. Effective July 25, 2008.
DCGS00546 Special Assistant to the Deputy Secretary. Effective July 29, 2008.
DCGS00628 Confidential Assistant to the Director of Advance. Effective July 29, 2008.

Section 213.3315 Department of Labor

DLGS60251 Deputy Director of Scheduling to the Chief of Staff. Effective July 03, 2008.
DLGS60245 Staff Assistant to the Associate Deputy Secretary. Effective July 22, 2008.
DLGS60267 Staff Assistant to the Director of Planning, Scheduling, and Advance. Effective July 29, 2008.

Section 213.3316 Department of Health and Human Services

DHGS60082 Health Attache to the Director, Office of Global Health Affairs. Effective July 18, 2008.
DHGS60080 Special Assistant to the Deputy General Counsel. Effective July 22, 2008.
DHGS60550 Senior Advisor to the Assistant Secretary, Health. Effective July 25, 2008.

Section 213.3317 Department of Education

DBGS00250 Confidential Assistant (Faith Based and Community Initiatives) to the Director, Faith-Based and Community Initiatives Center. Effective July 03, 2008.
DBGS00276 Confidential Assistant to the Chief of Staff. Effective July 10, 2008.
DBGS00506 Confidential Assistant to the Assistant Deputy Secretary for Safe and Drug-Free Schools. Effective July 15, 2008.

Section 213.3318 Environmental Protection Agency

EPGS08009 Executive Producer to the Deputy Chief of Staff (Operations). Effective July 09, 2008.

Section 213.3327 Department of Veterans Affairs

DVGS60076 Special Assistant (White House Liaison) to the Secretary of Veterans Affairs. Effective July 10, 2008.

Section 213.3331 Department of Energy

DEGS00668 Deputy Director, Public Affairs to the Director, Public Affairs. Effective July 03, 2008.
DEGS00669 Senior Policy Advisor to the Under Secretary for Science. Effective July 15, 2008.
DEGS00672 Policy Advisor to the Assistant Secretary of Energy (Nuclear Energy). Effective July 22, 2008.
DEGS00670 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective July 29, 2008.
DEGS00671 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective July 29, 2008.

Section 213.3332 Small Business Administration

SBGS00667 Senior Speechwriter to the Assistant Administrator for Communications and Public Liaison. Effective July 24, 2008.

Section 213.3337 General Services Administration

GSGS00180 Special Assistant to the Associate Administrator for Congressional and Intergovernmental Affairs. Effective July 28, 2008.

Section 213.3344 Occupational Safety and Health Review Commission

SHGS00002 Confidential Assistant to the Commission Member (Chairman). Effective July 25, 2008.

Section 213.3384 Department of Housing and Urban Development

DUGS60212 Staff Assistant to the General Deputy Assistant Secretary for Congressional and Intergovernmental Relations. Effective July 11, 2008.
DUGS60065 Special Assistant to the Secretary, Housing and Urban Development. Effective July 22, 2008.

Section 213.3394 Department of Transportation

DTGS60258 Associate Director for Governmental Affairs to the Assistant Secretary for Governmental Affairs. Effective July 11, 2008.
DTGS60358 Special Assistant for Scheduling and Advance to the Director for Scheduling and Advance. Effective July 11, 2008.
DTGS60384 Assistant to the Secretary for Policy to the Chief of Staff. Effective July 11, 2008.
DTGS60291 Associate Director for Governmental Affairs to the Assistant Secretary for Governmental Affairs. Effective July 17, 2008.
DTGS60450 Deputy Director for Scheduling and Advance to the Director for Scheduling and Advance. Effective July 18, 2008.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

U.S. Office of Personnel Management.

Howard Weizmann,

Deputy Director.

[FR Doc. E8–22519 Filed 9–24–08; 8:45 am]

BILLING CODE 6325–39–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 without change of a currently approved collection of information: 3220–0171, RUIA Claims Notification System. 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.

Section 5(b) of the Railroad Unemployment Insurance Act (RUIA), requires that effective January 1, 1990, ''when a claim for benefits is filed with the Railroad Retirement Board (RRB), the RRB shall provide notice of such claim to the claimant's base year employer or employers and afford such employer or employers an opportunity to submit information relevant to the claim before making an initial determination on the claim. When the RRB initially determines to pay benefits to a claimant under the RUIA, the RRB shall provide notice of such determination to the claimant's base-year employer or employers.''

The purpose of the RUIA Claims Notification System is to provide to unemployment and sickness claimant's base year employer or current employer, notice of each application and claim for benefits under the RUIA and to provide an opportunity for employers to convey information relevant to the proper adjudication of the claim. Railroad employers receive notice of applications and claims by one of three options. The first option, Form Letter ID–4K, is a computer generated form letter notice of all unemployment applications, unemployment claims and sickness claims received from employees of a railroad company on a particular day. Form Letters ID–4K are mailed on a daily basis to officials designated by railroad employers. The second option is an Electronic Data Interchange (EDI) version of the Form Letter ID–4K notice. EDI notices of applications are transmitted to participating railroads on a daily basis, generally on the same day that applications are received. The third option, an Internet equivalent ID–4K, provides the required notification by the RRB through the RRB's Internet-based Employer Reporting System (ERS). Completion is voluntary.

Railroad employers can respond to RRB notices of applications and claims manually by mailing a completed ID–4K back to the RRB or electronically via EDI or the ERS. No changes are being proposed to any of the ID–4K options.

Upon receipt of notice that the RRB has allowed a claim either in whole, or in part, the claimant's base-year employer(s) may request a review of the determination to pay benefits, if the employers believe the determination is incorrect. The RRB utilizes Form Letter ID–4DE, Notice of RUIA Claim Determinations, an Electronic Data Interchange (EDI) version of the Form Letter ID–4K notice and an Internet equivalent ID–4E to notify base-year employers that the RRB has made a determination to pay benefits and to allow them to request the RRB to review the determination. Form Letter ID–4E is mailed on a daily basis, generally on the same day that the claims are approved for payment. The EDI and Internet-equivalent ID–4E's are also sent to participating railroads on a daily basis, generally on the same day that the claims are approved for payment. Railroad employers can then request that the RRB review the determination either by filing a completed ID–4E by mail, EDI, or via the Internet. No changes are being proposed to any of the ID–4E options. Completion is voluntary.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (73 FR 43480 on July 25, 2008) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: RUIA Claims Notification System.

OMB Control Number: OMB 3220–0171.

Form(s) submitted: ID–4K, ID–4K (INTERNET), ID–4E, ID–4E (INTERNET).

Type of request: Extension without change of a currently approved collection of information.

Affected public: Private Sector; Business-or-other for profits.

Abstract: Section 5(b) of the RUIA requires that effective January 1, 1990, when a claim for benefits is filed with the Railroad Retirement Board (RRB), the RRB shall provide notice of such claim to the claimant's base-year employer(s) and afford such employer(s) an opportunity to submit information relevant to the claim before making an initial determination on the claim. When the RRB determines to pay benefits to a claimant under the RUIA, the RRB shall provide notice of such determination to the claimant(s) base-year employer.

Changes Proposed: The RRB proposes no changes to the forms in the collection.

The burden estimate for the ICR is as follows:

The estimated annual respondent burden is as follows:

Form Number	Annual responses	Time (min)	Burden hours
ID–4K (Manual)	1,250	2	42
ID–4K (EDI)	14,850	**	210
ID–4K (Internet)	2,500	2	83
ID–4E (Manual)	75	2	3
ID–4E (Internet)	25	2	1
Total	18,700		339

** The burden for the 5 participating employers who transmit EDI responses is calculated at 10 minutes each per day, 251 workdays a year or 210 total hours of burden.

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. E8–22593 Filed 9–24–08; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 58611]

Securities Exchange Act of 1934 Amendment to Emergency Order Pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 Taking Temporary Action To Respond to Market Developments

September 21, 2008.

Pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934,[1] on September 18, 2008, the Securities and Exchange Commission (''Commission'') issued an Emergency Order (the ''Order'') related to short selling the publicly traded securities of certain financial firms.[2] The Order was effective immediately. The Commission is issuing this amendment to address current and anticipated technical and operational concerns resulting from the requirements of the Order.

A. Included Financial Firms

The Order applies to the publicly traded securities of certain financial firms, which entities are identified in Appendix A to the Order (''Included Financial Firms''). We are amending the Order to modify the list of Included Financial Firms. As we stated in the Order, recent market conditions have raised concerns that short selling in the securities of a wide range of financial institutions may be causing sudden and excessive fluctuations of the prices of such securities in such a manner to threaten fair and orderly markets. Difficulties with the classification criteria led to the omission of financial institutions falling within these categories. In light of the familiarity of the exchanges listing financial institutions with the nature of their respective businesses, the Commission has determined to amend this Order to provide that the listing markets shall select the individual financial institutions with securities covered by the Order. The Commission expects each national securities exchange listing financial institutions to immediately publish a list, on its Internet Web site, of individual listed companies with common equity that will be covered by the Order's prohibition on short sales. The Commission expects these lists to cover banks, savings associations, broker-dealers, investment advisers, and insurance companies, whether domestic or foreign, and the owners of any of these entities.

To the extent an issuer chooses not to be covered by the Order's prohibition on short sales, we have authorized the applicable national securities exchange to exclude that issuer from its list of covered financial firms.

It is therefore ordered that, pursuant to our Section 12(k)(2) powers, the Order applies to the publicly traded common equity securities of any issuer identified by any national securities exchange listing such securities as being a financial institution (each a ''Covered Security'' and collectively, ''Covered Securities'').

B. Options and Futures Contract Expiration

The Order includes an exception from its requirements to allow short sales that occur as a result of automatic exercise or assignment of an equity option held prior to effectiveness of the Order due to expiration of the option. We are amending the Order to also allow short sales that occur as a result of the expiration of futures contracts held prior to effectiveness of the Order.

It is therefore ordered that, pursuant to our Section 12(k)(2) powers, the requirements of the Order shall not apply to any person that effects a short sale in any Covered Security as a result of automatic exercise or assignment of an equity option, or in connection with settlement of a futures contract, that is held prior to effectiveness of the Order due to expiration of the option or futures contract.

C. Options Assignments

To allow for creation of long call options, we are amending the Order to except from its requirements, short sales that occur as a result of assignment to call writers upon exercise.

It is therefore ordered that, pursuant to our Section 12(k)(2) powers, the requirements of the Order shall not apply to the writer of a call option that effects a short sale in any Covered Security as a result of assignment following exercise by the holder of the call.

D. Market Making and Derivatives

In the Order we included an exception until 11:59 p.m. on September 19, 2008 for any person that is a market maker that effects a short sale as part of bona fide market making and hedging activity related directly to bona fide market making in derivatives on the publicly traded securities of any Included Financial Firm. We are amending the exception so that it continues for the duration of the Order. In addition, we are clarifying that the exception applies to all market makers, including over-the-counter market makers, and that it applies to bona fide market making and hedging activity related directly to bona fide market making in exchange traded funds and exchange traded notes of which Covered Securities are a component. The purpose of this accommodation is to permit market makers to continue to provide liquidity to the markets.

To help ensure that this hedging exception does not result in increased short exposure in Covered Securities, we are limiting the exception so that if a customer or counterparty position in a derivative security based on a Covered Security is established after 12:01 a.m. E.D.T on September 22, 2008, a market maker may not effect a short sale in the Covered Security if the market maker knows that the customer's or counterparty's transaction will result in the customer or counterparty establishing or increasing an economic net short position (i.e., through actual positions, derivatives, or otherwise) in the issued share capital of a firm covered by this Order.

It is therefore ordered that, pursuant to our Section 12(k)(2) powers, the requirements of this Order shall not apply to any person that is a market maker, including an over-the-counter market maker, that effects a short sale as part of a bona fide market making and hedging activity related directly to bona fide market making in (a) derivative securities based on Covered Securities, or (b) exchange traded funds and exchange traded notes of which Covered Securities are a component. *Provided, however*, if a customer or counterparty position in a derivative security based on a Covered Security is established after 12:01 a.m. E.D.T on September 22, 2008, a market maker may not effect a short sale in the Covered Security if the market maker knows that the customer's or counterparty's transaction will result in the customer or counterparty establishing or increasing an economic net short position (i.e., through actual positions, derivatives, or otherwise) in the issued share capital of a firm covered by this Order.

All market makers relying on this exception to the limitation on short selling shall, as soon as operationally practicable, publish a notice on their Internet Web site that, pursuant to this

[1] 15 U.S.C. 78*l*(k)(2).

[2] *See* Securities Exchange Act Release No. 58592 (Sept. 18, 2008).

Order, the market maker may not knowingly effect a short sale as part of bona fide market making and hedging activity related directly to bona fide market making in a derivative security based on a Covered Security, if the customer's or counterparty's transaction will result in the customer or counterparty establishing or increasing an economic net short position (i.e., through actual positions, derivatives, or otherwise) in the issued share capital of a firm covered by the Order.

E. Sales of Restricted Securities

We are also amending the Order to clarify that the Order does not apply to persons that effect sales of Covered Securities pursuant to Rule 144 of the Securities Act of 1933 (''Rule 144 Securities'').[3] This accommodation is necessary because sales of Rule 144 Securities are sales of owned securities.

It is therefore ordered that, pursuant to our Section 12(k)(2) powers, the Order does not apply to any person that effects a sale pursuant to Rule 144 of the Securities Act of 1933 (17 CFR 230.144) in a Covered Security.

We believe that these amendments are necessary in the public interest and for the protection of investors to maintain fair and orderly securities markets, and to prevent substantial disruption to securities markets.

By the Commission.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–22502 Filed 9–24–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 58591A]

Securities Exchange Act of 1934; Amendment to Emergency Order Pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 Taking Temporary Action To Respond to Market Developments

September 21, 2008.

Pursuant to Section 12(k)(2) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] on September 18, 2008, the Securities and Exchange Commission (''Commission'') issued an Emergency Order (''Order'') requiring institutional investment managers to report short sales of certain publicly traded securities.[2] The Order takes effect on September 22, 2008 and requires the filing of a Form SH on September 29, 2008. This amendment relates to the public availability of the information provided by the institutional investment managers when they report such sales and also includes technical amendments.

The Commission is aware of the continued potential of sudden and excessive fluctuations of securities prices and disruption in the functioning of the securities markets that could threaten fair and orderly markets. As evidenced by our recent publication of emergency orders under Section 12(k) of the Exchange Act,[3] we are concerned about the possible unnecessary or artificial price movements based on unfounded rumors regarding the stability of financial institutions and other issuers exacerbated by short selling. We also believe that some persons may take advantage of issuers that have become temporarily weakened by current market conditions to engage in inappropriate short selling in the securities of such issuers.

Given the importance of confidence in our financial markets as a whole, we have become concerned about sudden and unexplained declines in the prices of securities. Such price declines can give rise to questions about the underlying financial condition of an issuer, which in turn can create a crisis of confidence without a fundamental underlying basis. This crisis of confidence can impair the liquidity and ultimate viability of an issuer, with potentially broad market consequences.

As a result of these recent developments, the Commission concluded that there continues to exist the potential of sudden and excessive fluctuations of securities prices generally and disruption in the functioning of the securities markets that could threaten fair and orderly markets. Based on this conclusion, the Commission is exercising its powers under Section 12(k)(2) of the Exchange Act.[4] Pursuant to Section 12(k)(2), in appropriate circumstances the Commission may by order summarily take action to alter, supplement, suspend, or impose requirements or restrictions with respect to matters or actions subject to regulation by the Commission.

We have concluded that it is necessary to require certain institutional investment managers to report information concerning daily short sales of securities. For purposes of this Order, we believe that section 13(f) of the Exchange Act and Rule 13f–1 provide useful and tested terms and definitions that provide a basis for requiring new disclosure. The Order therefore requires that an institutional investment manager that exercises investment discretion[5] with respect to accounts holding section 13(f) securities[6] having an aggregate fair market value on the last trading day of any month of any calendar year of at least $100,000,000 must file a new form with the Commission. Specifically, an institutional investment manager who has filed or was required to file a Form 13F for the calendar quarter ended June 30, 2008 under section 13(f) of the Exchange Act and Rule 13f–1(a) thereunder will be required to file a report on new Form SH with the Commission on the first business day[7] of every calendar week immediately following a week in which it effected short sales.

The Form SH, which must be filed electronically using the Commission's EDGAR system,[8] must include disclosure of the number and value of securities sold short for each section 13(f) security, except for short sales in options, and the opening short position, closing short position, largest intraday short position, and the time of the largest intraday short position, for that security during each calendar day of the prior week.[9] This disclosure requirement will apply only to short sales effected after the effective date of

[3] 17 CFR 230.144.

[1] 15 U.S.C. 78 l(k)(2).

[2] *See* Exchange Act Release No. 58591 (September 18, 2008).

[3] *See* Exchange Act Release No. 58166 (July 15, 2008), Exchange Act Release No. 58572 (September 17, 2008).

[4] This finding of an ''emergency'' is solely for purposes of Section 12(k)(2) of the Exchange Act and is not intended to have any other effect or meaning or to confer any right or impose any obligation other than set forth in this Order.

[5] The term ''investment discretion'' has the same meaning as in Exchange Act Rule 13f–1(b). *See* 17 CFR 240.13f–1(b).

[6] The term ''section 13(f) securities'' has the same meaning as in Exchange Act Rule 13f–1(c). *See* 17 CFR 240.13f–1(c).

[7] See Exchange Act Rule 0–2 for a description of the business hours of the Commission. 17 CFR 240.0–2.

[8] Although we are requiring managers to electronically file Forms SH using our EDGAR system, the Forms SH will be filed on a non-public basis. The Commission is permitting the non-public filing of Form SH in order to maintain fair and orderly securities markets and prevent substantial disruption in the securities markets. The Commission believes that the non-public submission of Form SH may help prevent artificial volatility in securities as well as further downward swings that are caused by short selling, while at the same time, providing the Commission with useful information to combat market manipulation that threatens investors and capital markets. Two weeks after the due date for the Forms SH, the Commission will make the Forms available to the public. We believe that by two weeks after the due date the reasons to maintain the information as non-public will have diminished.

[9] No Commission procedure for seeking confidential treatment of information filed with or transmitted to the Commission, such as those in 17 CFR 200.80, 200.83, or 240.24b–2, shall apply to the information that this Order requires to be filed.

the Order. In addition, no filing will be required when no short sales of a section 13(f) security have been effected since the previous filing of a Form SH. Finally, an institutional investment manager need not report short positions otherwise reportable if: (i) The short position in the section 13(f) security constitutes less than one-quarter of one percent of that class of the issuer's section 13(f) securities issued and outstanding as reported on the issuer's most recent annual or quarterly report, and any current report subsequent thereto, filed with the Commission pursuant to the Exchange Act, unless the manager knows or has reason to believe the information contained therein is inaccurate; and (ii) the fair market value of the short position in the section 13(f) security is less than $1,000,000.

We believe that the extraordinary circumstances we now confront require the new disclosure requirements we are imposing today. We also believe such disclosure requirements are necessary to protect the integrity and quality of the securities markets and strengthen investor confidence.

It is ordered that, pursuant to our Section 12(k)(2) powers:

Every institutional investment manager that exercises investment discretion with respect to accounts holding section 13(f) securities and that has filed or was required to file a Form 13F for the calendar quarter ended June 30, 2008, as required under section 13(f) of the Exchange Act and Rule 13f–1(a) thereunder, must file a report on Form SH with the Commission. The Form SH filing must be made on the first business day of each week immediately following a week in which the institutional investment manager has effected any short sale with respect to any section 13(f) security that is not an option. With respect to each section 13(f) security that is not an option, the Form SH filing must reflect the number and value of securities sold short during the day as well as the opening short position, closing short position, largest intraday short position, and the time of the largest intraday short position, for that security on each calendar day of the prior week in which the institutional investment manager engaged in trading activity with respect to short sales.

The disclosure requirement will apply only to short sales effected after the effective date of the Order. In addition, no filing will be required when no short sales of a section 13(f) security have been effected since the previous filing of a Form SH.

Finally, an institutional investment manager need not report short positions otherwise reportable if: (i) The short position in the section 13(f) security constitutes less than one-quarter of one per cent of that class of the issuer's section 13(f) securities issued and outstanding as reported on the issuer's most recent annual or quarterly report, and any current report subsequent thereto, filed with the Commission pursuant to the Exchange Act, unless the manager knows or has reason to believe the information contained therein is inaccurate; and (ii) the fair market value of the short position in the section 13(f) security is less than $1,000,000.

Short sale has the meaning set forth in Rule 200(a) of Regulation SHO (17 CFR 242.200(a)), and terms referenced in that provision shall have the same meaning as set forth in Regulation SHO; and *short positions* to be reported are those resulting from ''short sales'' as that term is defined in Rule 200(a) of Regulation SHO.

It is further ordered that, pursuant to our Section 12(k)(2) powers, the text of Form SH be as set forth in the attachment to this Order.

This Order shall be effective at 12:01 a.m. EDT on September 22, 2008, the first Form SH shall be required to be filed on September 29, 2008, and this Order shall terminate at 11:59 p.m. on October 2, 2008 unless further extended by the Commission.

By the Commission.

Florence E. Harmon,

Acting Secretary.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION, WASHINGTON, D.C. 20549

FORM SH

INFORMATION REQUIRED OF INSTITUTIONAL INVESTMENT MANAGERS PURSUANT TO EMERGENCY ORDER, SECURITIES EXCHANGE ACT OF 1934 RELEASE NO. 58591, SEPTEMBER 18, 2008

GENERAL INSTRUCTIONS

1. *Rule as to Use of Form SH.* Institutional investment managers (''Managers'') must use Form SH for reports to the Commission required by the Commission's Emergency Order, Securities Exchange Act of 1934 Release No. 58591, September 18, 2008 and the Amendment to that Order, Securities Exchange Act of 1934 Release No. 58591A, September 21, 2008 (the ''Orders''). The Orders provide that every Manager that exercises investment discretion with respect to accounts holding section 13(f) securities, as defined in rule 13f–1(c) under the Securities Exchange Act of 1934 [15 U.S.C. 78m(f)] (''Exchange Act''), who has filed or was required to file a Form 13F for the calendar quarter ended June 30, 2008, must file a non-public report on Form SH with the Commission to report certain information about short sales and short positions. The non-public Form SH filing must be made on the Monday (or, if Monday is a federal holiday, the first business day thereafter) of each calendar week immediately following a Form SH reporting period (i.e., the preceding Monday-Sunday, or seven calendar days) in which the Manager has entered into any new short positions with respect to any section 13(f) securities except for any short position(s) for options (''SH Short Positions''). The non-public Form SH will report SH Short Positions for the Monday-Sunday immediately preceding the Monday on which the Form SH is due to be filed.

2. *Rules To Prevent Duplicative Reporting.* If two or more Managers, each of which is required by the Orders to file a report on Form SH for the reporting period, exercise investment discretion with respect to the same securities, only one such Manager must include information in its reports on Form SH.

A Manager having information that is required by the Orders to be reported on Form SH, and such information is reported by another Manager (or Managers), such Manager must identify the Manager(s) reporting on its behalf in the manner described in Special Instruction 6.

3. *Filing of Form SH.* A Form SH report that is filed by a Manager with the Commission shall be non-public upon filing. A Manager must label its Form SH as non-public by adding the phrase NON–PUBLIC (in bold and capital letters) at the top and bottom of each page of the entire form, i.e., each page(s) of the Form SH Cover Page (the ''Cover Page''), the Form SH Summary Page (the ''Summary Page''), and the Form SH Information Table (the ''Information Table'').

A Manager must file a Form SH report with the Commission on or before 5:30 p.m. Eastern Standard Time or Eastern Daylight Savings Time, whichever currently is in effect in Washington, DC (''Eastern Time'') on the Monday (or, if Monday is a federal holiday, the first business day thereafter) of each week immediately following the preceding seven calendar day period in which the Manager has entered into any new SH Short Position(s). The Form SH must be filed electronically using the Commission's EDGAR system.

4. *Official List of Section 13(f) Securities.* The official list of section 13(f) securities published by the Commission (the ''13F List'') lists the securities the holdings of which a Manager is to report on Form 13F. *See* rule 13f–1(c) [17 CFR 240.13f–1(c)]. Form SH filers may rely on the current 13F List in determining whether they need to report on Form SH information about any particular equity security, excluding short positions on options. The 13F List is available on the SEC's Web site, at *http://www.sec.gov/divisions/investment/13flists.htm.* Paper copies are available at a reasonable fee from the Securities and Exchange Commission, Public Reference Room, 100 F Street, NE, Washington, DC 20549.

SPECIAL INSTRUCTIONS

1. This form consists of three parts: the Cover Page, the Summary Page, and the Information Table.

2. When preparing the report, omit all bracketed text. Include brackets used to form check boxes.

The Cover Page:

3. The period end date used in the report (and in the EDGAR submission header) is the Sunday before the Form SH is filed. The date should name the month, and express the day and year in Arabic numerals, with the year being a four-digit numeral (i.e., 2008).

4. Amendments to a Form SH must either restate the Form SH in its entirety or include only entries that are being reported in

addition to those already reported in a current public Form SH for the same period. If the Manager is filing the Form SH report as an amendment, then the Manager must check the amendment box on the Cover Page; enter the amendment number; and check the appropriate box to indicate whether the amendment (a) is a restatement or (b) adds new entries. Each amendment must include a complete Cover Page and, if applicable, a Summary Page and Information Table. Amendments must be filed sequentially.

5. Present the Cover Page and the Summary Page information in the format and order provided in the form. The Cover Page may include information in addition to the required information, so long as the additional information does not, either by its nature, quantity, or manner of presentation, impede the understanding or presentation of the required information. Place all additional information after the signature of the person signing the report (immediately preceding the Report Type section). Do not include any additional information on the Summary Page or in the Information Table.

6. Designate the Report Type for the Form SH by checking the appropriate box in the Report Type section of the Cover Page, and include, where applicable, the List of Other Managers Reporting for this Manager (on the Cover Page), the Summary Page and the Information Table, as follows:

a. If all of the information that a Manager is required by the Orders to report on Form SH is reported by another Manager (or Managers), check the box for Report Type ''FORM SH NOTICE,'' include (on the Cover Page) the List of Other Managers Reporting for this Manager, and omit both the Summary Page and the Information Table.

b. If all of the information that a Manager is required by the Orders to report on Form SH is reported in this report, check the box for Report Type ''FORM SH ENTRIES REPORT,'' omit from the Cover Page the List of Other Managers Reporting for this Manager, and include both the Summary Page and the Information Table.

c. If only a part of the information that a Manager is required by the Orders to report on Form SH is reported in this report, check the box for Report Type ''FORM SH COMBINATION REPORT,'' include (on the Cover Page) the List of Other Managers Reporting for this Manager, and include both the Summary Page and the Information Table.

Summary Page:

7. Include on the Summary Page the Report Summary, containing the Number of Other Included Managers, the Information Table Entry Total and the Information Table Value Total.

a. Enter as the Number of Other Included Managers the total number of other Managers listed in the List of Other Included Managers on the Summary Page, not counting the Manager filing this report. See Special Instruction 8. If none, enter the number zero (''0'').

b. Enter as the Information Table Entry Total the total number of line entries providing issuer information included in the Information Table.

c. Enter as the Information Table Value Total the aggregate fair market value in U.S. dollars of all securities sold short during the reporting period that are reported in this report, i.e., the total for Column 5 (Value of Securities Sold Short (Day)) of all line entries in the Information Table. The Manager must express this total as a rounded figure, corresponding to the individual Column 4 entries in the Information Table. See Special Instruction 9.

8. Include on the Summary Page the List of Other Included Managers. Use the title, column headings and format provided.

a. If this Form SH does not report the information that a Manager is required by the Orders to report on Form SH of any Manager other than the Manager filing this report, enter the word ''NONE'' under the title and omit the column headings and list entries.

b. If this Form SH reports the information that a Manager is required by the Orders to report on Form SH of one or more Managers other than the Manager filing this report, enter in the List of Other Included Managers all such Managers together with their respective Form 13F file numbers, if known. (The Form 13F file numbers are assigned to Managers when they file their first Form 13F.) Assign a number to each Manager in the List of Other Included Managers, and present the list in sequential order. The numbers need not be consecutive. The List of Other Managers cannot include the Manager filing this report.

Information Table:

9. In determining the fair market value of securities sold short, a Manager must use the market price of the section 13(f) securities as of the close of floor trading on the New York Stock Exchange (''NYSE'') for the day in question. If the securities are sold short on a non-business day, a Manager must use the market price of the section 13(f) securities as of the close of the NYSE for the most recent business day. Such market closing time shall be used to determine the price for all SH Short Positions, irrespective of which U.S. equity market the issuer trades on. Enter values rounded to the nearest one thousand dollars (with ''000'' omitted).

10. Furnish the Information Table using the table title, column headings and format provided. Provide column headings once at the beginning of the Information Table; repetition of column headings on subsequent pages is not required. Present the table in accordance with the column instructions provided in Special Instructions 10.a.i through 10.a.viii. Do not include any additional information in the Information Table. Begin the Information Table on a new page; do not include any portion of the Information Table on either the Cover Page or the Summary Page.

a. Instructions for each column in the Information Table:

i. *Column 1. Name of Issuer*. Enter in Column 1 the name of the issuer as it appears in the current official list of section 13(f) Securities published by the Commission in accordance with rule 13f–1(c) (the ''13F List''). Reasonable abbreviations are permitted.

ii. *Column 2. CUSIP Number*. Enter in Column 2 the nine (9) digit CUSIP number of the security for which information is being reported.

iii. *Column 3. Short Position (Start of Day)*. Enter in Column 3 the number of securities that represent the Manager's short position in the issuer as of the start of each calendar day (or days, in the case of Saturday and Sunday) during the reporting period. The Short Position (Start of Day) for Monday, September 22, 2008 shall be zero.

iv. *Column 4. Number of Securities Sold Short (Day)*. Enter in Column 4 the aggregate number of securities in the issuer that the Manager sold short for each calendar day (or days, in the case of Saturday and Sunday) during the reporting period.

v. *Column 5. Value of Securities Sold Short (Day)*. Enter in Column 5 the market value in U.S. dollars of the number of securities reported in Column 4. In valuing such securities, use the fair market value for each security, as set forth in Special Instruction 9, supra.

vi. *Column 6. Short Position (End of Day)*. Enter in Column 6 the number of securities that represent the Manager's short position in the issuer as of the end of each calendar day (or days, in the case of Saturday and Sunday) during the reporting period.

vii. *Column 7. Largest Intra-Day Short Position*. Enter in Column 7 the number of securities that represent the Manager's largest single short position in the issuer for each calendar day (or days, in the case of Saturday and Sunday) during the reporting period.

viii. *Column 8. Time of Day of Largest Intra-Day Short Position*. Enter in Column 7 the time of day (Eastern Time) that the Manager had the largest single short position in the issuer, as reported in Column 7.

11. Preparation of the electronic filing:

Filing documents may be submitted in either ASCII or HTML document format. For ASCII submissions, please note items a, b, and c. Preparation of the filing document should follow instructions in the EDGAR Filer Manual (Volume 2), EDGAR Filing available on the SEC's Web site at *http://www.sec.gov/info/edgar/edmanuals.htm*.

a. No line on the Cover Page or the Summary Page may exceed 80 characters in length. See rule 305 of Regulation S–T [17 CFR 232.305].

b. No line in the Form SH Information Table may exceed 132 characters in length. See rule 305 of Regulation S–T [17 CFR 232.305].

c. If the Form SH Report Type is ''SH ENTRIES REPORT'' or ''SH COMBINATION REPORT,'' then place one EDGAR <PAGE> tag at the end of the Cover Page and one <PAGE> tag at the end of the Summary Page. Additional EDGAR <PAGE> tags are not required. Those electing to include additional <PAGE> tags should, for each page containing a <PAGE> tag, include no more than sixty (60) lines per page, including the line on which the <PAGE> tag is placed.

d. In preparing the Form SH report for electronic filing, a Manager may omit underscoring used in the form to indicate the placement of information that the Manager is to furnish.

e. Use the following EDGAR submission types for the following Form SH Report Types:

Form SH Report Type	EDGAR Submission Type
FORM SH ENTRIES REPORT:	
Initial Filing	SH–ER
Amendments	SH–ER/A
FORM SH NOTICE:	
Initial Filing	SH–NT
Amendments	SH–NT/A
FORM SH COMBINATION REPORT:	
Initial Filing	SH–ER
Amendments	SH–ER/A

Filings with the form types set forth in this instruction will be filed on a non-public basis.

Paperwork Reduction Act Information

The Office of Management and Budget has approved this collection of information pursuant to 44 U.S.C. § 3507 and 5 CFR § 1320.13. The OMB control number for this collection of information is 3235–0646. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. We estimate that providing the requested information will take, on average, approximately 5 hours. Any member of the public may direct to the Commission any comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden. See Order 58591A regarding confidentiality.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION, Washington, D.C. 20549

FORM SH

FORM SH COVER PAGE

Report for the Period Ended: _____
[Month, Day, Year]

Check here if Amendment [ ]
Amendment Number: _____
This Amendment (Check only one):
[ ] is a restatement.
[ ] adds new entries.

Institutional Investment Manager Filing this Report:
Name: _____
Address: _____
_____
_____

Form 13F File Number: 28– _____

The institutional investment manager filing this report and the person by whom it is signed hereby represent that the person signing the report is authorized to submit it, that all information contained herein is true, correct and complete, and that it is understood that all required items, statements, schedules, lists, and tables are considered integral parts of this form.

Person Signing this Report on Behalf of Reporting Manager:
Name: _____
Title: _____
Phone: _____

Signature, Place, and Date of Signing:

_____
[Signature]

_____
[City, State]

_____
[Date]

Report Type (Check only one):
[ ] FORM SH ENTRIES REPORT. (Check here if all entries of this reporting manager are reported in this report.)
[ ] FORM SH NOTICE. (Check here if no entries reported are in this report, and all entries are reported by other reporting manager(s).)
[ ] FORM SH COMBINATION REPORT. (Check here if a portion of the entries for this reporting manager is reported in this report and a portion is reported by other reporting manager(s).)

List of Other Managers Reporting for this Manager:
[If there are no entries in this list, omit this section.]
Form 13F File Number:
28– _____
Name: _____
[Repeat as necessary.]

FORM SH SUMMARY PAGE

Report Summary:
Number of Other Included Managers:

_____
Form SH Information Table Entry Total:

_____
Form SH Information Table Value Total:

_____
(thousands)

List of Other Included Managers:

Provide a numbered list of the name(s) and Form 13F file number(s) of all institutional investment managers with respect to which this Form SH report is filed, other than the manager filing this report.

[If there are no entries in this list, state ''NONE'' and omit the column headings and list entries.]

No. _____
Form 13F File Number:
28– _____
Name: _____
[Repeat as necessary.]

UNITED STATES SECURITIES AND EXCHANGE COMMISSION, Washington, D.C. 20549

FORM SH

FORM SH COVER PAGE

Report for the Period Ended: _____
[Month, Day, Year]

Check here if Amendment [ ]
Amendment Number: _____
This Amendment (Check only one):
[ ] is a restatement.
[ ] adds new entries.

Institutional Investment Manager Filing this Report:
Name: _____
Address: _____
_____
_____

Form 13F File Number: 28– _____

The institutional investment manager filing this report and the person by whom it is signed hereby represent that the person signing the report is authorized to submit it, that all information contained herein is true, correct and complete, and that it is understood that all required items, statements, schedules, lists, and tables are considered integral parts of this form.

Person Signing this Report on Behalf of Reporting Manager:
Name: _____
Title: _____
Phone: _____

Signature, Place, and Date of Signing:

_____
[Signature]

_____
[City, State]

_____
[Date]

Report Type (Check only one):
[ ] FORM SH ENTRIES REPORT. (Check here if all entries of this reporting manager are reported in this report.)

[ ] FORM SH NOTICE. (Check here if no entries reported are in this report, and all entries are reported by other reporting manager(s).)

[ ] FORM SH COMBINATION REPORT. (Check here if a portion of the entries for this reporting manager is reported in this report and a portion is reported by other reporting manager(s).)

List of Other Managers Reporting for this Manager:
[If there are no entries in this list, omit this section.]
Form 13F File Number:
28– _____
[Repeat as necessary.]
Name: _____

FORM SH SUMMARY PAGE

Report Summary:
Number of Other Included Managers:

_____
Form SH Information Table Entry Total:

_____
Form SH Information Table Value Total:

_____
(thousands)

List of Other Included Managers:

Provide a numbered list of the name(s) and Form 13F file number(s) of all institutional investment managers with respect to which this Form SH report is filed, other than the manager filing this report.

[If there are no entries in this list, state ''NONE'' and omit the column headings and list entries.]

No. _____
Form 13F File Number:
28– _____
Name: _____
[Repeat as necessary.]

FORM SH INFORMATION TABLE—PAGE 1

MONDAY, [Month, Day, Year]

Name of Issuer	CUSIP	Short Position (Start of Day)	Number of Securities Sold Short (Day)	Value of Securities Sold Short (Day)	Short Position (End of Day)	Largest Intra-Day Short Position	Time of Day of Largest Intra-Day Short Position
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8

FORM SH INFORMATION TABLE—PAGE 2

TUESDAY, [Month, Day, Year]

Name of Issuer	CUSIP	Short Position (Start of Day)	Number of Securities Sold Short (Day)	Value of Securities Sold Short (Day)	Short Position (End of Day)	Largest Intra-Day Short Position	Time of Day of Largest Intra-Day Short Position
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8

FORM SH INFORMATION TABLE—PAGE 2—Continued

TUESDAY, [Month, Day, Year]

Name of Issuer	CUSIP	Short Position (Start of Day)	Number of Securities Sold Short (Day)	Value of Securities Sold Short (Day)	Short Position (End of Day)	Largest Intra-Day Short Position	Time of Day of Largest Intra-Day Short Position
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8

FORM SH INFORMATION TABLE—PAGE 3

WEDNESDAY, [Month, Day, Year]

Name of Issuer	CUSIP	Short Position (Start of Day)	Number of Securities Sold Short (Day)	Value of Securities Sold Short (Day)	Short Position (End of Day)	Largest Intra-Day Short Position	Time of Day of Largest Intra-Day Short Position
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8

FORM SH INFORMATION TABLE—PAGE 4

THURSDAY, [Month, Day, Year]

Name of Issuer	CUSIP	Short Position (Start of Day)	Number of Securities Sold Short (Day)	Value of Securities Sold Short (Day)	Short Position (End of Day)	Largest Intra-Day Short Position	Time of Day of Largest Intra-Day Short Position
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8

FORM SH INFORMATION TABLE—PAGE 4—Continued

THURSDAY, [Month, Day, Year]

Name of Issuer Column 1	CUSIP Column 2	Short Position (Start of Day) Column 3	Number of Securities Sold Short (Day) Column 4	Value of Securities Sold Short (Day) Column 5	Short Position (End of Day) Column 6	Largest Intra-Day Short Position Column 7	Time of Day of Largest Intra-Day Short Position Column 8

FORM SH INFORMATION TABLE—PAGE 5

FRIDAY, [Month, Day, Year]

Name of Issuer Column 1	CUSIP Column 2	Short Position (Start of Day) Column 3	Number of Securities Sold Short (Day) Column 4	Value of Securities Sold Short (Day) Column 5	Short Position (End of Day) Column 6	Largest Intra-Day Short Position Column 7	Time of Day of Largest Intra-Day Short Position Column 8

FORM SH INFORMATION TABLE—PAGE 6

SATURDAY–SUNDAY, [Month, Day, Year]

Name of Issuer	CUSIP	Short Position (Start of Day)	Number of Securities Sold Short (Day)	Value of Securities Sold Short (Day)	Short Position (End of Day)	Largest Intra-Day Short Position	Time of Day of Largest Intra-Day Short Position
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8

[FR Doc. E8–22509 Filed 9–24–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28383; 812–13355]

Triangle Capital Corporation, et al.; Notice of Application

September 19, 2008.

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Notice of an application for an order under sections 6(c), 12(d)(1)(J), and 57(c) of the Investment Company Act of 1940 (''Act'') granting exemptions from sections 12(d)(1)(A) and (C), 18(a), 21(b), 57(a)(1)–(a)(3), and 61(a) of the Act; under section 57(i) of the Act and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by section 57(a)(4) of the Act; and under section 12(h) of the Securities Exchange Act of 1934 (''Exchange Act'') granting an exemption from section 13(a) of the Exchange Act.

SUMMARY OF APPLICATION: Applicants, Triangle Capital Corporation (''Triangle''), Triangle Mezzanine Fund, LLLP (''Triangle SBIC''), and New Triangle GP, LLC (''General Partner''), request an order permitting a business development company (''BDC'') and its wholly-owned small business investment company (''SBIC'') subsidiary to (1) engage in certain transactions that otherwise would be permitted if the BDC and its SBIC subsidiary were one company, (2) adhere to a modified asset coverage requirement, and (3) file certain reports on a consolidated basis.

FILING DATES: The application was filed on January 3, 2007 and amended on November 5, 2007, and September 16, 2008.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5.30 pm on October 10, 2008, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, c/o Garland S. Tucker III, Triangle Capital Corporation, 3700 Glenwood Avenue, Suite 530, Raleigh, NC 27612.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 551–6812, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Desk,

100 F Street, NE., Washington, DC 20549–0102 (tel. 202–551–5850).

Applicants' Representations

1. Triangle, a Maryland corporation organized in October 2006, is an internally managed, non-diversified, closed-end investment company that has elected to be regulated as a BDC under the Act.[1] In addition, Triangle will elect to be treated for tax purposes as a regulated investment company (''RIC'') as defined under Subchapter M of the Internal Revenue Code of 1986, as amended. Triangle operates as a specialty finance company that provides customized financing solutions to lower middle market companies that have annual revenues between $10 and $100 million. Triangle's investment objective is to seek attractive returns by generating current income from debt investments and capital appreciation from equity related investments.

2. Triangle has a seven member board of directors (''Board''), four of whom are not ''interested persons'' of Triangle within the meaning of section 2(a)(19) of the Act. Triangle is internally managed by its executive officers under the supervision of the Board. As a result, Triangle does not pay external investment advisory fees, but instead incurs operating costs associated with employing investment and portfolio management professionals.

3. Triangle SBIC, a North Carolina limited liability limited partnership, is an SBIC licensed by the Small Business Administration (''SBA'') to operate under the Small Business Investment Act of 1958. Triangle SBIC filed a registration statement on Form N–5 with the Commission and has elected to be regulated as a BDC under the Act. Triangle SBIC has the same investment objectives and strategies as Triangle. Triangle owns a 99.9 percent limited partnership interest in Triangle SBIC, and the General Partner, a wholly-owned subsidiary of Triangle, owns a 0.1 percent general partnership interest in Triangle SBIC. Triangle SBIC, therefore, is functionally a 100 percent owned subsidiary of Triangle, because Triangle and the General Partner own all of the equity and voting interest in Triangle SBIC. Triangle SBIC is consolidated with Triangle for financial reporting purposes. Triangle SBIC has a Board consisting of four persons who are not interested persons of Triangle SBIC within the meaning of section 2(a)(19) of the Act and three persons who are interested persons of Triangle SBIC.

4. All investments for Triangle SBIC are approved by the investment committee of Triangle SBIC, which is a committee of Triangle SBIC and is subject to approval by the SBA. In addition, Triangle and Triangle SBIC have entered into a management services agreement whereby Triangle provides management services to Triangle SBIC, including prospective investment identification, due diligence and analytical services, preparation of reports, research and economic/statistical data relating to potential and existing investments for use by the Triangle SBIC Board in overseeing the Triangle SBIC investment portfolio, monitoring of existing investments, including enforcement of rights under operative agreements, bookkeeping, accounting and other administrative services, preparation of financial reports and tax returns, preparation of reports filed with the SBA, provision of office space and clerical staff, and maintenance of relationships with professionals retained by Triangle SBIC.

5. The General Partner is a limited liability company organized under the laws of the state of North Carolina. The General Partner has irrevocably delegated its authority to manage the business and affairs of Triangle SBIC to the Triangle SBIC Board. As a consequence, the General Partner's only role is to perform certain ministerial functions that result from decisions made by the Triangle SBIC Board.

Applicants' Legal Analysis

1. Applicants request an order under sections 6(c), 12(d)(1)(J), 57(c) and 57(i) of the Act and rule 17d–1 under the Act granting exemptions from sections 12(d)(1), 18(a), 21(b), 57(a)(1), 57(a)(2), 57(a)(3), 57(a)(4) and 61(a) of the Act to permit Triangle and Triangle SBIC to engage in certain transactions that otherwise would be permitted if Triangle and Triangle SBIC were one company and to permit Triangle to adhere to a modified asset coverage requirement. Applicants also request an exemption under section 12(h) of the Exchange Act for an exemption from section 13(a) of the Exchange Act.

2. Section 12(d)(1)(A) of the Act, made applicable to BDCs by section 60 of the Act, limits the amount of securities a registered investment company or BDC may hold of other investment companies. Section 12(d)(1)(C) of the Act limits the amount of securities of a closed-end investment company that may be acquired by an investment company. Rule 60a–1 exempts a BDC's acquisition of the securities of a wholly-owned SBIC subsidiary from sections 12(d)(1)(A) and (C). Accordingly, the transfer of assets from Triangle to Triangle SBIC will be exempt from the provisions of sections 12(d)(1)(A) and 12(d)(1)(C) by virtue of rule 60a–1. However, any loans or advances by Triangle SBIC to Triangle might be deemed to violate section 12(d)(1) if the loans or advances are construed as purchases by Triangle SBIC of the securities of Triangle.

3. Applicants request an exemption under section 12(d)(1)(J) from section 12(d)(1) to permit the acquisition by Triangle SBIC of any securities of Triangle representing indebtedness. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exception is consistent with the public interest and the protection of investors. Applicants state that the requested relief meets this standard because Triangle SBIC's wholly-owned subsidiary status and consolidated financial reporting with Triangle will both eliminate the possibility of overreaching and prevent confusion as to the financial status of Triangle to Triangle's stockholders, who are the investors that the Act is intended to protect.

4. Section 18(a) prohibits a registered close-end investment company from issuing any class of senior security or selling any such security of which it is the issuer unless the company complies with the asset coverage requirements set forth in that section. Section 61(a) of the Act makes section 18 applicable to BDCs, with certain modifications. Section 18(k) exempts an investment company operating as an SBIC from the asset coverage requirements of section 18(a)(1)(A) and (B) (with respect to senior securities representing indebtedness).

5. Applicants state that a question exists as to whether Triangle must comply with the asset coverage requirements of section 18(a) on a consolidated basis because Triangle may be deemed to be an indirect issuer of senior securities issued by Triangle SBIC. For Triangle to comply with these asset coverage requirements would mean that, with certain exceptions, Triangle would treat as its own all assets held directly by Triangle and Triangle SBIC and any liabilities of Triangle SBIC, including liabilities of Triangle SBIC with respect to senior securities as to which Triangle SBIC is exempt from the asset coverage requirements of section 18(a)(1)(A) and (B) by virtue of

[1] Section 2(a)(48) of the Act defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

section 18(k). Accordingly, applicants request relief under section 6(c) of the Act from sections 18(a) and 61(a) of the Act to permit Triangle to exclude from its consolidated asset coverage ratio any senior security representing indebtedness that is issued by Triangle SBIC.

6. Section 6(c) of the Act, in relevant part, permits the Commission to exempt any transaction or class of transactions from any provision of the Act if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that, without the requested relief from sections 18(a) and 61(a), the ability of Triangle SBIC to obtain the kind of financing that would be available to Triangle if it were to conduct the SBIC operations itself would be restricted. Moreover, the exclusion by Triangle from its consolidated asset coverage ratio of any senior security representing indebtedness that is issued by Triangle SBIC would not harm the public interest because the SBA regulates the capital structure of Triangle SBIC.

7. Sections 57(a)(1) and (2) of the Act generally prohibit, with certain exceptions, sales or purchases of any security or other property between BDCs and certain of their affiliates as described in section 57(b) of the Act. Section 57(b) includes a person, directly or indirectly, either controlling, controlled by or under common control with the BDC. Applicants state that Triangle directly owns all of the limited partnership interests in Triangle SBIC and indirectly owns all of the general partnership interests in Triangle SBIC through its 100% ownership of the General Partner. Accordingly, Triangle and Triangle SBIC are related to each other in the manner set forth in section 57(b).

8. Applicants state that there may be circumstances when it is in the interests of Triangle and its stockholders that Triangle SBIC invest in securities of an issuer that may be deemed to be a controlled affiliate of Triangle or that Triangle invest in securities of an issuer that may be deemed to be a controlled affiliate of Triangle SBIC. Applicants therefore request an exemption from sections 57(a)(1) and 57(a)(2) of the Act to permit any transaction solely between Triangle and Triangle SBIC with respect to the purchase or sale of securities or other property. Applicants also seek an exemption from these provisions to allow any transaction involving Triangle and/or Triangle SBIC and portfolio affiliates of either or both of Triangle and/or Triangle SBIC. Applicants state that the requested relief is intended only to permit Triangle and Triangle SBIC to do that which they otherwise would be permitted to do if they were one company.

9. Section 57(c) provides that the Commission will exempt a proposed transaction from the provisions of section 57(a)(1), (2), and (3) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching of any person concerned, and the proposed transaction is consistent with the policy of the BDC concerned and the general purposes of the Act.

10. Applicants submit that the requested relief from section 57(a)(1) and (2) meets this standard. Applicants represent that the proposed operation of Triangle and Triangle SBIC as one company will enhance the efficient operations of both companies and allow them to deal with portfolio companies as if Triangle and Triangle SBIC were one company. Applicants contend that the terms of the proposed transactions are reasonable and fair and do not involve overreaching of Triangle or its stockholders by any person, and that the requested order would permit applicants to carry out more effectively their purposes and objectives of investing primarily in small business concerns. Applicants also state that since Triangle SBIC will be a wholly-owned subsidiary of Triangle and no officers or directors of Triangle or Triangle SBIC (or any controlling persons or other ''upstream affiliates'' of Triangle) will have any prohibited financial interest in the transactions described, there can be no overreaching on the part of any persons in transactions solely between Triangle and Triangle SBIC. Finally, applicants note that the proposed transactions are consistent with the policy of Triangle and Triangle SBIC as specified in filings with the Commission and reports to stockholders, as well as consistent with the policies and provisions of the Act.

11. Section 57(a)(3) of the Act makes it unlawful for certain affiliated persons of a BDC, and certain affiliated persons of those persons, to borrow money or other property from such BDC or from any company controlled by the BDC, except as permitted by section 21(b) or section 62. Section 21(b) of the Act (made applicable to BDCs by section 62) provides that it shall be unlawful for a BDC to lend any money or property, directly or indirectly, to any person that controls or is under common control with the BDC, except for loans to any company that owns all of the outstanding securities of the BDC (other than directors' qualifying shares).

12. Triangle is an affiliated person of Triangle SBIC by reason of its direct ownership of all of the limited partnership interests in Triangle SBIC and its indirect ownership of all of the general partnership interests in Triangle SBIC through its 100% ownership of the General Partner. Triangle does not directly own all of the outstanding securities of Triangle SBIC because the General Partner holds a 0.1 percent general partnership interest in Triangle SBIC and Triangle SBIC has issued SBA-guaranteed debentures and, in the future, may have other outstanding securities in the form of indebtedness not owned by Triangle. Triangle SBIC is an affiliated person of Triangle because it is deemed to be under the control of Triangle.

13. Applicants state that there may be instances when it would be in the best interests of Triangle and its stockholders for Triangle to make loans to Triangle SBIC or for Triangle SBIC to make loans to Triangle. Applicants note that, in the case of loans from Triangle SBIC to Triangle, the loans would be prohibited by section 21(b) and section 57(a)(3) because the borrower controls the lender and the lender may have outstanding securities not owned by the borrower. Accordingly, applicants request an order under section 6(c) to exempt the lending of money or other property by Triangle SBIC to Triangle and by Triangle to Triangle SBIC from the provisions of section 21(b). Applicants argue that because these transactions are solely between Triangle and Triangle SBIC, its wholly-owned subsidiary, they will have no substantive economic effect and there will be no basis for overreaching or harm to the public interest. Applicants also request an order under section 57(c) to exempt the borrowing of money or property by Triangle from Triangle SBIC from the provisions of section 57(a)(3). Applicants submit that the requested relief meets the standards of section 57(c).

14. Section 17(d) of the Act and rule 17d–1 under the Act (made applicable to BDCs by section 57(i)) prohibit affiliated persons of a registered investment company, or an affiliated person of such person, acting as principal, from participating in any joint transaction or arrangement in which the registered company or a company it controls is a participant, unless the Commission has issued an order authorizing the arrangement. Section 57(a)(4) of the Act imposes substantially the same prohibitions on joint transactions involving any BDC and an

affiliated person of such BDC, or an affiliated person of such affiliated person, as specified in section 57(b) of the Act. Section 57(i) of the Act provides that rules and regulations under section 17(d) of the Act will apply to transactions subject to section 57(a)(4) in the absence of rules under that section. The Commission has not adopted rules under section 57(a)(4) with respect to joint transactions and, accordingly, the standards set forth in rule 17d-1 govern applicants' request for relief.

15. Applicants request relief under section 57(i) and rule 17d–1 to permit any transaction solely between Triangle and Triangle SBIC with respect to any transfer of assets to Triangle SBIC or operations thereafter, and any transaction involving investments by Triangle or Triangle SBIC in portfolio companies in which either is or is proposed to become an investor, but only to the extent that the transaction would not be prohibited if Triangle SBIC were deemed to be part of Triangle.

16. In determining whether to grant an order under section 57(i) and rule 17d–1, the Commission considers whether the participation of the BDC in the joint transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Applicants note that the proposed transactions are consistent with the policy and provisions of the Act and will enhance the interests of Triangle's stockholders while retaining for them the important protections afforded by the Act. In addition, because the joint participants will conduct their operations as though they comprise one company, the participation of one will not be on a basis different from or less advantageous than the others. Accordingly, applicants believe that the standard for relief under section 57(i) and rule 17d–1 is satisfied.

17. Section 54 of the Act provides that a closed-end company may elect BDC treatment under the Act if the company has either a class of equity securities registered under section 12 of the Exchange Act or has filed a registration statement pursuant to section 12 of the Exchange Act for a class of its equity securities. Section 12(g) of the Exchange Act requires issuers with specified assets and a specified number of security holders to register under the Exchange Act. As a BDC, Triangle has registered its common stock under section 12(b) of the Exchange Act. In order to elect BDC treatment, Triangle SBIC has voluntarily registered its securities under the Exchange Act, even though it is not required to do so by section 12(g) of the Exchange Act.

18. By filing a registration statement under section 12 of the Exchange Act, absent an exemption, Triangle SBIC would be required by section 13(a) of the Exchange Act to file periodically with the Commission, even though Triangle SBIC will have only one equity holder. Accordingly, applicants request an order under section 12(h) of the Exchange Act exempting Triangle SBIC from the reporting requirements of section 13(a) of the Exchange Act to permit it to file consolidated reports with Triangle.

19. Section 12(h) of the Exchange Act provides that the Commission may exempt an issuer from section 13 of the Exchange Act if the Commission finds that by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer, or otherwise, that such action is not inconsistent with the public interest or the protection of investors. Triangle SBIC will have only one investor, which is itself a reporting company, and no public investors. There will be no trading in Triangle SBIC securities, so no public interest or investor protective purpose will be served by separate Triangle SBIC reporting. Further, applicants state that the nature and extent of Triangle SBIC's activities are such that its activities will be fully reported through consolidated reporting in accordance with normal accounting rules. Accordingly, applicants believe that the requested exemption meets the standards of section 12(h) of the Exchange Act.

Applicants' Conditions

Applicants agree that the requested order will be subject to the following conditions:

A. Capital Structure Conditions

1. Triangle will at all times own and hold, beneficially and of record, all of the outstanding limited partnership interests in Triangle SBIC and all of the outstanding membership interests in the General Partner, or otherwise own and hold beneficially all of the outstanding voting securities and other equity interests in Triangle SBIC.

2. Triangle SBIC will have investment policies not inconsistent with those of Triangle, as set forth in Triangle's registration statement.

3. No person shall serve as a member of the Board of Triangle SBIC unless such person shall also be a member of the Board of Triangle. The Board of Triangle SBIC will be appointed by the equity owners of Triangle SBIC.

4. Triangle will not itself issue or sell any senior security, and Triangle will not cause or permit Triangle SBIC to issue or sell any senior security of which Triangle or Triangle SBIC is the issuer except to the extent permitted by section 18 (as modified for BDCs by section 61) of the Act; provided that immediately after the issuance or sale of any such notes or evidence of indebtedness by either Triangle or Triangle SBIC, Triangle and Triangle SBIC on a consolidated basis, and Triangle individually, shall have the asset coverage required by section 18(a) (as modified by section 61(a)), except that, in determining whether Triangle and Triangle SBIC on a consolidated basis have the asset coverage required by section 61(a), any borrowings by Triangle SBIC shall not be considered senior securities and, for purposes of the definition of ''asset coverage'' in section 18(h), shall be treated as indebtedness not represented by senior securities.

5. Triangle will acquire securities of Triangle SBIC representing indebtedness only if, in each case, the prior approval of the SBA has been obtained. In addition, Triangle and Triangle SBIC will purchase and sell portfolio securities between themselves only if, in each case, the prior approval of the SBA has been obtained.

B. Consolidated Reporting

1. Triangle will: (a) File with the Commission, on behalf of itself and Triangle SBIC, all information and reports required to be filed with the Commission under the Exchange Act and other applicable federal securities laws, including information and financial statements prepared solely on a consolidated basis as to Triangle and Triangle SBIC, such information and reports to be in satisfaction of the separate reporting obligations of Triangle SBIC; and (b) provide to its stockholders such information and reports required to be disseminated to Triangle's stockholders, including information and financial statements prepared solely on a consolidated basis as to Triangle and Triangle SBIC, such reports to be in satisfaction of the separate reporting obligations of Triangle SBIC. Notwithstanding anything in this condition, Triangle will not be relieved of any of its reporting obligations including, but not limited to, any consolidating statements setting forth the individual statements of Triangle SBIC required by rule 6–03(c) of Regulation S–X.

2. Triangle and Triangle SBIC may file on a consolidated basis pursuant to the

above condition only so long as the amount of Triangle's total consolidated assets invested in assets other than (a) securities issued by Triangle SBIC or (b) securities similar to those in which Triangle SBIC invests, does not exceed 10%.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E8–22508 Filed 9–24–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28382; 812–13514]

Trust for Professional Managers, et al.; Notice of Application

September 19, 2008.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

SUMMARY OF APPLICATION: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

APPLICANTS: Trust for Professional Managers (the ''Trust'') and Ascentia Capital Partners, LLC (the ''Adviser'').

FILING DATES: The application was filed on March 31, 2008, and amended on August 14, 2008. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 14, 2008, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549–1090. Applicants, 615 East Michigan Street, Milwaukee, WI 53202.

FOR FURTHER INFORMATION CONTACT: Steven I. Amchan, Attorney Adviser, at (202) 551–6826, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549–1520 (telephone (202) 551–5850).

Applicants' Representations

1. The Trust, a Delaware statutory trust organized as a series investment company, is registered under the Act as an open-end management investment company and currently offers 22 series, one of which, Ascentia Alternative Strategies Fund, is advised by the Adviser (the ''Fund'').[1] The Adviser, a limited liability company organized under Nevada law, is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''), and serves as investment adviser to the Fund under an investment advisory agreement with the Trust (''Advisory Agreement'') that has been approved by the shareholders of the Fund and the Trust's board of trustees (''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of either the Trust or the Adviser (''Independent Trustees'').

2. Under the terms of the Advisory Agreement, the Adviser provides the Fund with overall management services and continuously reviews, supervises and administers the Fund's investment program, subject to the supervision of, and policies established by, the Board. For the investment management services it provides to the Fund, the Adviser receives the fee specified in the Advisory Agreement from the Fund. The Advisory Agreement also permits the Adviser, subject to the approval of the Board and Fund shareholders, to enter into investment subadvisory agreements (''Subadvisory Agreements'') with one or more subadvisers (''Subadvisers''). The Adviser has entered into Subadvisory Agreements with various Subadvisers to provide investment advisory services to the Fund. Each Subadviser is, and every future Subadviser will be, registered as an investment adviser under the Advisers Act. The Adviser monitors and evaluates the Subadvisers and recommends to the Board their hiring, retention or termination. Subadvisers recommended to the Board by the Adviser are selected and approved by the Board, including a majority of the Independent Trustees. Each Subadviser has discretionary authority to invest the assets or a portion of the assets of a particular Fund. The Adviser compensates each Subadviser out of the fees paid to the Adviser under the Advisory Agreement.

3. Applicants request an order to permit the Adviser, subject to Board approval, to enter into and materially amend Subadvisory Agreements without obtaining shareholder approval. The requested relief will not extend to any Subadviser who is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust or of the Adviser, other than by reason of serving as a Subadviser to one or more Funds (''Affiliated Subadviser'').

4. Applicants also request an exemption from the various disclosure provisions described below that may require the Funds to disclose fees paid by the Adviser to each Subadviser. An exemption is requested to permit the Trust to disclose for each Fund (as both a dollar amount and as a percentage of the Fund's net assets): (a) The aggregate fees paid to the Adviser and any Affiliated Subadviser; and (b) the aggregate fees paid to Subadvisers other than Affiliated Subadvisers (''Aggregate Fee Disclosure''). Any Fund that employs an Affiliated Subadviser will provide separate disclosure of any fees paid to the Affiliated Subadviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for

[1] Applicants request relief with respect to existing and future series of the Trust and any other existing or future registered open-end management investment company or series thereof that: (a) Is advised by the Adviser or a person controlling, controlled by, or under common control with the Adviser or its successors; (b) uses the management structure described in the application; and (c) complies with the terms and conditions of the application (collectively, the ''Funds''). For purposes of the requested order, ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization. The only existing registered open-end management investment company that currently intends to rely on the requested order is named as an applicant. If the name of any Fund contains the name of a Subadviser (as defined below), the name of the Adviser or the name of the entity controlling, controlled by, or under common control with the Adviser that serves as the primary adviser to the Fund will precede the name of the Subadviser.

any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by a vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 14(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (''1934 Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N–SAR is the semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N–SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Subadvisers.

5. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require that investment companies include in their financial statements information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that their requested relief meets this standard for the reasons discussed below.

7. Applicants assert that the shareholders rely on the Adviser's experience to select one or more Subadvisers best suited to achieve the Fund's investment objectives. Applicants assert that, from the perspective of the investor, the role of the Subadvisers is comparable to that of the individual portfolio managers employed by traditional investment company advisory firms. Applicants state that requiring shareholder approval of each Subadvisory Agreement would impose costs and unnecessary delays on the Funds, and may preclude the Adviser from acting promptly in a manner considered advisable by the Board. Applicants note that the Advisory Agreement and any Subadvisory Agreement with an Affiliated Subadviser will remain subject to section 15(a) of the Act and rule 18f–2 under the Act.

8. Applicants assert that many Subadvisers use a ''posted'' rate schedule to set their fees. Applicants state that while Subadvisers are willing to negotiate fees that are lower than those posted on the schedule, they are reluctant to do so where the fees are disclosed to other prospective and existing customers. Applicants submit that the requested relief will encourage potential Subadvisers to negotiate lower subadvisory fees with the Adviser.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the order requested in the application, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund's outstanding voting securities, as defined in the Act, or, in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering the Fund's shares to the public.

2. The prospectus for each Fund will disclose the existence, substance, and effect of any order granted pursuant to the application. Each Fund will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. Within 90 days of the hiring of any new Subadviser, the affected Fund's shareholders will be furnished all information about the new Subadviser that would be included in a proxy statement, except as modified to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of the new Subadviser. To meet this obligation, a Fund will provide shareholders within 90 days of the hiring of a new Subadviser with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the 1934 Act, except as modified by the order to permit Aggregate Fee Disclosure.

4. The Adviser will not enter into a Subadvisory Agreement with any Affiliated Subadviser without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. At all times, at least a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

6. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the applicable Board minutes, that such change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

7. Independent legal counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then existing Independent Trustees.

8. The Adviser will provide the Board, no less frequently than quarterly, with information about the profitability of the Adviser on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Subadviser during the applicable quarter.

9. Whenever a Subadviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

10. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of the Fund's assets and, subject to review and approval of the Board, will: (a) Set each Fund's overall investment strategies; (b) evaluate, select and recommend Subadvisers to manage all or part of a

Fund's assets; (c) when appropriate, allocate and reallocate a Fund's assets among multiple Subadvisers; (d) monitor and evaluate the performance of Subadvisers; and (e) implement procedures reasonably designed to ensure that the Subadvisers comply with each Fund's investment objective, policies and restrictions.

11. No trustee or officer of the Trust, or director or officer of the Adviser, will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Subadviser, except for: (a) Ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Subadviser or an entity that controls, is controlled by, or is under common control with a Subadviser.

12. Each Fund will disclose in its registration statement the Aggregate Fee Disclosure.

13. The requested order will expire on the effective date of rule 15a–5 under the Act, if adopted.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E8–22507 Filed 9–24–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58585; File No. SR–CTA/CQ–2008–02]

Consolidated Tape Association; Order Approving the Twelfth Substantive Amendment to the Second Restatement of the Consolidated Tape Association Plan and the Eighth Substantive Amendment to the Restated Consolidated Quotation Plan

September 18, 2008.

I. Introduction

On June 19, 2008, the Consolidated Tape Association (''CTA'') Plan and Consolidated Quotation (''CQ'') Plan participants (''Participants'') [1] filed with the Securities and Exchange Commission (''Commission'') pursuant to Rule 608 [2] under the Securities Exchange Act of 1934 (''Act'') [3] a proposal to amend the CTA and CQ Plans (collectively, the ''Plans'') [4] to: (1) Permit ministerial amendments to the Plans to be submitted to the Commission under the signature of the Chairman of CTA/CQ Operating Committee, rather than by means of each Participant's execution of a Plan amendment; (2) accommodate recent changes to the names and addresses of certain Participants; and (3) change the Plans' references to Commission rules to reflect the re-designation of rules by Regulation NMS [5] (''Amendments''). The proposed Amendments were published for comment in the **Federal Register** on August 20, 2008.[6] No comment letters were received in response to the Notice. This order approves the Amendments.

II. Description of the Proposal

Currently, both Plans require each Participant to execute most amendments [7] to the Plans before the amendments can be filed with the Commission. The Participants propose to amend the Plans to permit the submission to the Commission of ministerial amendments to the Plans under the signature of the Chairman of the CTA/CQ Operating Committee, in lieu of requiring each Participant's signature indicating that it has executed the amendment as required by Section IV(b) of the CTA Plan and Section IV(c) of the CQ Plan.

The categories of ministerial Plan amendments that the Participants may submit under the signature of the Chairman include amendments to the Plans that pertain solely to one or more of the following:

(1) Admitting a new Participant into the Plans;

(2) Changing the name or address of a Participant;

(3) Incorporating a change that the Commission has implemented by rule and that requires no conforming language to the text of the Plans (*e.g.*, the Commission rule establishing the Advisory Committee);

(4) Incorporating a change (i) that the Commission has implemented by rule, (ii) that requires conforming language to the text of the Plans (*e.g.*, the Commission rule amending the revenue allocation formula), and (iii) that a majority of all Participants has voted to approve; [8]

(5) Incorporating a purely technical change, such as correcting an error or an inaccurate reference to a statutory provision, or removing language that has become obsolete (*e.g.*, language regarding the Intermarket Trading System Plan).

In addition, the Participants propose to amend the Plans to reflect changes in the corporate names of the Chicago Board Options Exchange, Incorporated (formerly, Chicago Board Options Exchange, Inc.) (''CBOE''), the Financial Industry Regulatory Authority, Inc. (formerly, the National Association of Securities Dealers, Inc.), and National Securities Exchange, Inc. (formerly, National Securities Exchange), as well as changes in the street address of CBOE.

The Participants further propose to change references in the Plans to Commission rules to reflect the re-designation of certain Commission rules as a result of Regulation NMS.[9]

III. Discussion

After careful review, the Commission finds that the Amendments to the Plans are consistent with the requirements of the Act and the rules and regulations thereunder,[10] and, in particular, Section 11A(a)(1) of the Act [11] and Rule 608 thereunder [12] in that they are necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market

[1] Each Participant executed the proposed amendment. The Participants are the American Stock Exchange LLC; Boston Stock Exchange, Inc.; Chicago Board Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC; The NASDAQ Stock Market LLC (''NASDAQ''); National Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE Arca, Inc.; and Philadelphia Stock Exchange, Inc.

[2] 17 CFR 240.608.

[3] 15 U.S.C. 78k–1.

[4] *See* Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (order approving CTA Plan); 15009 (July 28, 1978), 43 FR 34851 (August 7, 1978) (order temporarily approving CQ Plan); and 16518 (January 22, 1980), 45 FR 6521 (order permanently approving CQ Plan). The most recent restatement of both Plans was in 1995. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a ''transaction reporting plan'' under Rule 601 under the Act, 17 CFR 242.601, and a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608. The CQ Plan, pursuant to which markets collect and disseminate bid/ask quotation information for listed securities, is a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608.

[5] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[6] *See* Securities Exchange Act Release No. 58358 (August 13, 2008), 73 FR 49225 (''Notice'').

[7] Some Plan amendments do not require a unanimous vote; therefore not every Participant would have to execute the amendment.

[8] The Commission notes that the vote of the Participants would concern the exact wording of conforming language, but not the change implemented by the Commission.

[9] *See supra* note 5.

[10] The Commission has considered the proposed amendments' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78k–1(a)(1).

[12] 17 CFR 240.608.

system. The Commission finds that permitting the Chairman of the CTA/CQ Operating Committee to submit ministerial amendments will increase the efficiency of the administration of the Plans and increase the timeliness of updating the Plans for accuracy. Additionally, the Commission finds that the proposed Amendments streamlining the process for admitting new Participants remove impediments to competition by facilitating the timely admission of a new Participant to the Plans.

IV. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act,[13] and Rule 608 thereunder,[14] that the proposed amendments to the CTA and CQ Plans (SR–CTA/CQ–2008–02) are approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E8–22489 Filed 9–24–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [73 FR 54644, September 22, 2008]

STATUS: Closed Meeting.

PLACE: 100 F Street, NE., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Tuesday, September 23, 2008 at 10 a.m.

CHANGE IN THE MEETING: Date Change.

The Closed Meeting scheduled for Tuesday, September 23, 2008 at 10 a.m., has been changed to Wednesday, September 24, 2008 at 10 a.m.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551–5400.

Dated: September 22, 2008.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–22546 Filed 9–24–08; 8:45 am]

BILLING CODE 8010–01–P

[13] 15 U.S.C. 78k–1.

[14] 17 CFR 240.608.

[15] 17 CFR 200.30–3(a)(27).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Monday, September 29, 2008 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), 9(B) and (10) and 17 CFR 200.402(a)(5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Casey, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting scheduled for Monday, September 29, 2008 will be:

Formal orders of investigation;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: September 22, 2008.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–22644 Filed 9–24–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 58612]

Order Granting Temporary, Conditional Relief From the Net Capital Rule for Barclays Capital, Inc.

September 22, 2008.

Barclays Capital, Inc. (''Barclays Capital'') is a broker-dealer registered with the Securities and Exchange Commission (''Commission''). Barclays Capital's ultimate holding company is Barclays Group (''Barclays Group''), which is supervised by the United Kingdom Financial Services Authority. Barclays Group, through Barclays Capital, has entered into an agreement to purchase substantially all of the assets, businesses and personnel of Lehman Brothers Inc. (''Lehman'').

On November 9, 2005, the Commission issued an Order approving Lehman's application to use the alternative method of computing net capital contained in Appendix E (''Appendix E'') to Rule 15c3–1 (17 CFR 240.15c3–1e) under the Securities Exchange Act of 1934 (''Exchange Act''). In a September 19, 2008 letter to the Commission, Barclays Capital and Barclays Group applied to the Commission for an exemption that would permit Barclays Capital, as successor to a substantial portion of Lehman's assets and liabilities, to continue to use for a temporary period the alternative method of computing net capital contained in Appendix E solely when computing capital charges for the positions it acquires from Lehman.

Pursuant to paragraph (b)(3) of Rule 15c3–1, the Commission may, upon written application, exempt from the provisions of Rule 15c3–1, either unconditionally or on specified terms and conditions, any broker or dealer who satisfies the Commission that, because of the special nature of its business, its financial position, and the safeguards it has established for the protection of customers' funds and securities, it is not necessary in the public interest or for the protection of investors to subject the particular broker or dealer to the provisions of Rule 15c3–1.

In its letter, Barclays Capital and Barclays Group have represented to the Commission that until such time as the Commission acts on Barclays Capital's application to use the alternate net capital treatment and supervision on a consolidated basis, Barclays Capital will:

(1) File a draft application promptly, and cooperate and file with the Commission a plan to complete all requirements of such application process (including a timeline) and file a completed application in accordance with Appendix E to Exchange Act Rule 15c3–1 within 180 days of the bankruptcy court's approval of Barclays' acquisition of Lehman's assets. In the event Barclays Capital will not be able to file a completed application with respect to the various provisions related to VaR Models, Barclays Capital will promptly inform the Commission of such; and

(2) Devote the appropriate resources and personnel to support such alternate net capital treatment and supervision on a consolidated basis, including any additional conditions the Commission may find to be necessary or appropriate in the public interest or for the protection of investors.

In addition, Barclays Capital stated in its letter that, based on a pro-forma net capital computation, it would have in excess of $6.5 billion in Tentative Net Capital, as defined.

In order to facilitate both a smooth transition of the Lehman assets and liabilities to Barclays Capital and continued oversight of this business, the Commission believes some additional conditions are necessary, as follows:

(1) Until such time as the Commission determines otherwise, Barclays Capital must maintain at least $6 billion in Tentative Net Capital;

(2) Until such time as the Commission determines otherwise, the basic market risk and credit risk computations for the positions Barclays Capital acquires from Lehman must be done using the modeling infrastructure used by Lehman prior to the transfer of Lehman's assets and liabilities to Barclays Capital; and

(3) Until such time as the Commission determines otherwise, the basic market risk and credit risk computations must be supervised by individuals who fully understand the operation of Lehman's models (including the inputs and techniques unique to Lehman's models) and the securities that Lehman has been permitted to model, and that have at least one year of experience working with Lehman's models. According to Barclays Capital's letter, it has agreed to acquire substantially all personnel of Lehman, such that it should have employees that meet these requirements on its staff to continue to meet this condition for the exemption.

Barclays Capital will need to maintain Tentative Net Capital of at least $6 billion. By increasing its Tentative Net Capital to at least $6 billion, Barclays Capital will significantly improve its financial position. In addition, the movement of these accounts from Lehman to Barclays Capital will further protect customers by providing for a seamless transfer of customers' accounts from Lehman to a financially sound broker-dealer. Further, this temporary relief is specific to the business Barclays Capital purchases from Lehman, using models already reviewed and approved by the Commission, and the computations will be performed by persons familiar to Lehman's models and processes. This relief will extend only until the Commission acts on Barclays Capital's application to compute market and credit risk capital charges pursuant to Appendix E, which Barclays Capital has agreed to submit within 180 days of the bankruptcy court's approval of Barclays Capital's acquisition of Lehman's assets. As such, because of the special nature of Barclays Capital's business, its financial position, and the safeguards it has established for the protection of customers' funds and securities, the Commission finds that approval of this request, subject to the fulfillment by Barclays Capital and its ultimate holding company Barclays Group of these representations and conditions, is appropriate in the public interest or for the protection of investors.

Accordingly,

It is ordered, under paragraph (b)(3) of Rule 15c3–1 (17 CFR 240.15c3–1) under the Exchange Act, that Barclays Capital may calculate capital charges for the positions it purchases from Lehman Brothers Inc. using the market risk standards of Appendix E to compute a deduction for market risk on some or all of the positions, instead of the provisions of paragraphs (c)(2)(vi) and (c)(2)(vii) of Rule 15c3–1, and using the credit risk standards of Appendix E to compute a deduction for credit risk on the credit exposures arising from transactions in derivatives instruments, instead of the provision of paragraph (c)(2)(iv) of Rule 15c3–1, subject to the fulfillment by Barclays Capital and Barclays Group of the representations and conditions set forth above.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E8–22503 Filed 9–24–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 28386; File No. 812–13576]

The Reserve Fund, on Behalf of Two of Its Series, the Primary Fund and the U.S. Government Fund; Order Temporarily Suspending Redemption of Investment Company Shares and Postponing Payment for Investment Company Shares Which Have Been Submitted for Redemption for Which Payment Has Not Been Made Pursuant to Section 22(E)(3) of the Investment Company Act of 1940

September 22, 2008.

The Reserve Fund (the ''Trust'' or the ''Applicant''), an open-end management investment company registered with the Commission under the Investment Company Act of 1940 (the ''Act''), has filed an application on behalf of two of its series, the Primary Fund and the U.S. Government Fund (the ''Funds''), for a temporary order pursuant to section 22(e)(3) of the Act permitting (a) suspension of the right of redemption of their outstanding redeemable securities, and (b) postponement of payment for shares which have been submitted for redemption for which payment has not been made.

Section 22(e) of the Act provides, in relevant part, that no registered investment company shall suspend the right of redemption, or postpone the date of payment upon redemption except ''(3) for such * * * periods as the Commission may by order permit for the protection of security holders of the company.''

Applicant represents that: (1) The board, including a majority of directors that are not interested persons of the Trust: (a) Determined, on September 17, 2008, that a suspension of redemption is in the best interest of each Fund's shareholders, and (b) determined, on September 17, 2008, that a postponement of payment for shares which have been submitted for redemption for which payment has not been made is in the best interest of each Fund's shareholders, and (c) will create a plan for the orderly liquidation of each Fund's assets to meet redemption requests and for the appropriate payments to each Fund's shareholders, including those whose redemption orders have been received but not yet paid, which plan is subject to Commission supervision; (2) the Funds have suspended sales; and (3) the Funds will make and keep appropriate records surrounding these events.

Based on the representations in the application, including those relating to the current extraordinary market conditions, the Commission finds that the temporary suspension of the right of redemption and postponement of payment for shares which have been submitted for redemption for which payment has not been made by the Funds is necessary for the protection of their security holders.

Accordingly, *it is ordered*, pursuant to section 22(e)(3) of the Act, that the requested exemption from section 22(e) of the Act is granted until the markets are liquid to a degree that enables each Fund to liquidate portfolio securities without impairing the net asset value of each Fund, or the Commission, on its own initiative, rescinds the order granted herein. This order shall be in effect as of September 17, 2008.

By the Commission.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–22547 Filed 9–24–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58606; File No. SR–Amex–2008–72]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the American Stock Exchange LLC Temporarily Suspending the Requirements of Its Rules Concerning the Approval of New Member Organizations in Order To Approve Barclays Capital Inc. Immediately and Provisionally as a New Member Organization

September 19, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 19, 2008, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] 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 is proposing to temporarily suspend the requirements of Article IV, Section 2 of the Amex Constitution and related Amex rules concerning the approval of new member organizations in order to approve Barclays Capital Inc. (''BCI'') as a new associate member organization, subject to BCI complying with Exchange rules for a new member organization within 60 days of the date that BCI is provisionally approved.

The text of the proposed rule change is available on the Amex's Web site at *http://www.amex.com*, the Office of the Secretary, the Amex and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex 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 Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes this rule filing to temporarily suspend the requirements of Article IV, Section 2 of the Amex Constitution and related Amex rules concerning the approval of new member organizations in order to immediately approve as an Amex associate member organization BCI, which is the entity acquiring the assets of Lehman Brothers Inc. (''LBI'').[6] The Exchange proposes this temporary suspension on an emergency basis to ensure that BCI will be able to expeditiously complete its proposed acquisition of certain LBI assets and begin operating former LBI business lines by September 22, 2008. This proposed temporary suspension is contingent upon BCI complying with all requirements of a new Amex member organization applicant within 60 days of the date that BCI is provisionally approved as an Amex member organization under this rule filing.

a. Background

(i) Lehman Files for Bankruptcy

On September 15, 2008, Lehman Brothers Holding Inc. (''Lehman''), after a precipitous decline in its financial condition, filed for bankruptcy protection in the United States Bankruptcy Court for the Southern District of New York under Chapter 11 of the U.S. bankruptcy code. Lehman is the parent holding company of LBI, which is a registered broker dealer and Amex member organization. Although LBI did not file for bankruptcy protection at that time, Lehman's Chapter 11 status impacted the ability of LBI to continue operations.

On September 17, 2008, Barclays Bank PLC (''Barclays''), a global financial services provider, announced that it had agreed to acquire the LBI investment banking and capital markets operations and supporting infrastructure for $1.75 billion (the ''proposed acquisition''). As part of the proposed acquisition, Barclays would be acquiring the LBI fixed income and equities sales, trading and research, and investment banking businesses (the ''LBI businesses''). Barclays would also be acquiring approximately 10,000 LBI employees, the Lehman headquarters located at 745 Seventh Avenue in New York City, and two data centers located in New Jersey. The proposed acquisition is subject to a number of conditions, including approval by the United States Bankruptcy Court for the Southern District of New York and other regulatory approvals and antitrust review. Moreover, if the proposed acquisition is not completed by September 24, 2008, Barclays may terminate the agreement to acquire LBI businesses.

(ii) Barclays Will Transfer LBI Assets to BCI

On September 19, 2008, Barclays announced that certain LBI assets, including its employees and businesses, will be transferred to its wholly-owned subsidiary, BCI. BCI is a registered U.S. broker dealer and FINRA member, but not currently approved as an Amex member organization.

The Exchange understands that LBI will likely file for some form of bankruptcy protection on Friday, September 19, 2008, and thus by the close of business on Friday, LBI will be in the control of a trustee. The Exchange further understands that, subject to approval by the bankruptcy court, as part of the bankruptcy proceeding, LBI assets will be sold to Barclays and transferred to BCI. Accordingly, as early as September 19, 2008, BCI may own and control the LBI businesses.

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] Amex gave the Commission written notice of its intention to file the proposed rule change on September 19, 2008. The Commission reviewed the proposed rule change and gave Amex permission to file the proposed rule change on the same day. Amex asked the Commission to waive the 30-day operative delay. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

[6] LBI also was an associate member organization. ''Associate'' denotes that the member organization has no floor presence and only accesses the Exchange electronically.

b. Proposed Temporary Suspension of Article IV, Section 2 of the Amex Constitution and Related Rules

(i) Amex Member Organization Application Process

When a corporate acquisition concerns an asset transfer only, and not an acquisition of the corporate entity itself, Amex member organization status cannot be simply transferred to the acquiring entity. Rather, the entity that proposes to continue the business operations of the predecessor member organization must be separately approved as an Amex member organization.

Article IV, Section 2 of the Amex Constitution generally provides in relevant part that ''[n]o * * * entity shall become or remain a member organization * * * unless such organization * * * meets and continues to meet the standards prescribed in the Constitution and rules of the Exchange.'' More specifically, Amex Rule 310 provides that any organization which proposes to become a member organization shall notify the Exchange in writing and submit such information as may be required by Amex rules. Collectively, Amex Rules 310–312 and 354–356 set forth the specific information that must be submitted to the Exchange, and procedures that must be followed, by a prospective membership organization (and/or its associate members, allied members, and approved persons) before membership will be approved. Information that must typically be submitted with an application to become a member organization includes, among other things:

- Charters, certificates of incorporation, by-laws, stock certificates, and other miscellaneous agreements and documents relating to corporate governance matters;
- Statements of financial condition;
- Certified lists of stockholders; proposed members, directors or approved persons; and principal executive officers; and
- Opinions of counsel as to various matters.

Amex membership department staff, working with Amex regulation staff, review all of the information submitted to verify that all of the rules of the Exchange are being followed, with such process generally taking several months to complete.

Ordinarily, in the context of an acquisition, the separate Amex approval of the new membership organization would occur following adequate advance notice by the acquirer, in order to afford the Amex membership department sufficient time to collect, evaluate, and process all of the materials it needs from the acquirer without any cessation of the target's business operations while the approval of the new membership organization is pending. However, in light of the speed of the acquisition of LBI's business operations by BCI, the ordinary Amex membership department approval process cannot occur on its usual time frame without creating a substantial gap in LBI's operations on the Exchange. To avoid such a gap—which the exchange understands would be damaging to LBI's business, the interests of its numerous customers, and the prospective transaction with Barclays—Amex proposes to temporarily suspend the rules governing the approval process for new membership organizations, solely insofar as they apply to BCI.

(ii) A Temporary Suspension of Article II, Section 2 (and Related Amex Rules) for BCI Is Necessary

As noted, BCI—already a registered broker-dealer and FINRA member—will continue the business operations of LBI in the same manner that they were operated by LBI. Because the bankruptcy court is expected to approve BCI's acquisition of the assets of LBI as early as Friday, September 19, 2008, BCI could be ready to begin operations on the Amex as early as Monday, September 22, 2008. However, absent a suspension of the relevant Amex rules, BCI would be unable to continue LBI's operations without interruption because of the time frame required to complete the member organization application process.

The Exchange therefore proposes providing BCI with a temporary suspension of Article IV, Section 2 of the Amex Constitution, as well as Amex Rules 310–312 and 354–356, as they relate to approval to operate an Amex member organization and approval of a proposed member organization's approved persons, so that BCI can be immediately approved as a member organization. As proposed, this temporary suspension is contingent upon BCI and its approved persons within 60 days completing all steps otherwise required to obtain approval as a member organization (as set forth in Article IV, Section 2 of the Amex Constitution and Amex Rules 310–312 and 354–56), failing which BCI's provisional status as an Amex member organization will no longer be effective.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[7] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5)[8] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange did not receive any written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

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.

The Amex has requested the Commission to waive the 30-day operative delay. The Commission hereby grants Amex's request.[11] The Commission notes that the Exchange is

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] For purposes of waiving the 30-day operative delay, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

proposing that certain of its rules relating to membership requirements be temporarily suspended so that BCI can be provisionally approved as an Amex member organization. The proposed relief does not exempt BCI from Exchange rule requirements governing member organizations. BCI would have a 60-day grace period within which to apply for and be approved under relevant Exchange rules. Moreover, the Commission believes that immediate effectiveness is appropriate to ensure a smooth transition of the LBI businesses to another entity. In particular, with respect to BCI, time is of the essence as it has been announced that BCI may succeed to LBI's assets as early as September 19, 2008. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and designates the proposed rule change as operative upon filing.

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 *rulecomments@sec.gov*. Please include File No. SR–Amex–2008–72 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 No. SR–Amex–2008–72. 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 at (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Amex–2008–72 and should be submitted on or before October 16, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E8–22505 Filed 9–24–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58568; File No. SR–CHX–2008–12)

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Consolidating Into a Single Rule Certain Requirements for Securities Traded on the Exchange Pursuant to Unlisted Trading Privileges

September 17, 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 September 15, 2008, the Chicago Stock Exchange, Inc. (''Exchange'' or ''CHX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. This order provides notice of the proposed rule change and approves the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to amend its rules to add and consolidate into a single rule certain requirements for products traded on the Exchange pursuant to unlisted trading privileges (''UTP'') that have been established in various new products proposals previously approved by the Commission. The text of the proposed rule change is available on the Exchange's Web site (*http://www.chx.com*) and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item III below. The CHX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules to add and consolidate into a single rule certain requirements for products traded on the Exchange pursuant to UTP that have been established in various new products proposals previously approved by the Commission. The Exchange proposes to add CHX Article 22, Rule 6 to set forth rules regarding the extension of UTP to a security that is listed on another national securities exchange. Any such security will be subject to all Exchange trading rules applicable to NMS Stocks, unless otherwise noted. The Exchange will file with the Commission a Form 19b–4(e) with respect to any such security that is a ''new derivative securities product'' as defined in Rule 19b–4(e) under the Act.[3] In addition, any new derivative securities product traded on the Exchange pursuant to proposed CHX Article 22, Rule 6 will be subject to the following criteria.

Proposed CHX Article 22, Rule 6(a)(i) provides that the Exchange will distribute an information circular prior to the commencement of trading in such new derivative securities product which generally will include the same information as the information circular provided by the listing exchange, including: (1) The special risks of trading the new derivative securities product; (2) the Exchange's rules that will apply to the new derivative securities product, including the

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(e).

suitability rule; (3) information about the dissemination of value of the underlying assets or indexes; and (4) the risk of trading during irregular trading hours due to the lack of calculation or dissemination of the Intraday Indicative Value or a similar value.

Proposed CHX Article 22, Rule 6(a)(ii) reminds Participants that they are subject to the prospectus delivery requirements under the Securities Act of 1933, as amended (''Securities Act''), unless the new derivative securities product is the subject of an order by the Commission exempting the product from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 (''1940 Act'') and the product is not otherwise subject to prospectus delivery requirements under the Securities Act. The Exchange will inform its Participants regarding the application of the provisions of this subparagraph to a particular series of exchange-traded funds governed by the 1940 Act by means of an information circular.

Proposed CHX Article 22, Rule 6(a)(iii) addresses trading halts in the new derivative securities products traded on the Exchange pursuant to UTP. Proposed CHX Article 22, Rule 6(a)(iii) provides that the Exchange, upon notification by the listing market of a halt due to a temporary interruption in the calculation or wide dissemination of the Intraday Indicative Value (or a similar value) or the value of the underlying index or instrument, will immediately halt trading in that product on the Exchange. If the Intraday Indicative Value (or a similar value) or the value of the underlying index or instrument continues not to be calculated or widely available as of trading on the Exchange on the next business day, the Exchange shall not commence trading of the product that day. If an interruption in the calculation or wide dissemination of the Intraday Indicative Value (or a similar value) or the value of the underlying index or instrument continues, the Exchange may resume trading in the product only if calculation and wide dissemination of the Intraday Indicative Value (or a similar value) or the value of the underlying index or instrument resumes or trading in such series resumes in the listing market.

Additionally, proposed CHX Article 22, Rule 6(a)(iii) provides that for a new derivative securities product where a net asset value (and, in the case of managed fund shares or actively managed exchange-traded funds, a ''disclosed portfolio'') is disseminated, the Exchange will immediately halt trading such security upon notification by the listing market that the net asset value and, if applicable, such disclosed portfolio is not being disseminated to all market participants at the same time. The Exchange will resume trading in the new derivative securities product only when the net asset value and, if applicable, such disclosed portfolio is disseminated to all market participants at the same time or trading in the new derivative securities product resumes on the listing market.

CHX represents that the Exchange's surveillance procedures for new derivative securities products traded on the Exchange pursuant to UTP will be similar to the procedures used for equity securities traded on the Exchange and will incorporate and rely upon existing Exchange surveillance systems. The Exchange will closely monitor activity in new derivative securities products traded on the Exchange pursuant to UTP and deter any potential improper trading activity. Proposed CHX Article 22, Rule 6(b) also provides that the Exchange will enter into a comprehensive surveillance sharing agreement (''CSSA'') with a market trading components of the index or portfolio on which the new derivative securities product is based to the same extent as the listing exchange's rules require the listing market to enter into a CSSA with such market.

Finally, proposed CHX Article 22, Rule 6(c) provides for restrictions for Participants registered as Market Makers (''Restricted Market Maker'') in an new derivative securities product that derives its value from one or more currencies, commodities, or derivatives based on one or more currencies or commodities, or is based on a basket or index comprised of currencies or commodities (collectively, ''Reference Assets''). Specifically, proposed CHX Article 22, Rule 6(c)(i) provides a Restricted Market Maker in an new derivative securities product is prohibited from acting or registering as a market maker in any Reference Asset of that new derivative securities product or any derivative instrument based on a Reference Asset of that new derivative securities product (collectively, with Reference Assets, ''Related Instruments''). Proposed CHX Article 22, Rule 6(c)(ii) provides a Restricted Market Maker shall, in a manner prescribed by CHX, file with CHX and keep current a list identifying any accounts (''Related Instrument Trading Accounts'') for which Related Instruments are traded: (a) In which the Restricted Market Maker holds an interest; (b) over which it has investment discretion; or (c) in which it shares in the profits and/or losses. In addition, a Restricted Market Maker may not have an interest in, exercise investment discretion over, or share in the profits and/or losses of a Related Instrument Trading Account which has not been reported to CHX as required by this Rule. Proposed CHX Article 22, Rule 6(c)(iii) provides that in addition to the existing obligations under CHX rules regarding the production of books and records, a Restricted Market Maker shall, upon request by CHX, make available to CHX any books, records, or other information pertaining to any Related Instrument Trading Account or to the account of any registered or non-registered employee affiliated with the Restricted Market Maker for which Related Instruments are traded. Finally, proposed CHX Article 22, Rule 6(c)(iv) provides that a Restricted Market Maker shall not use any material nonpublic information in connection with trading a Related Instrument.

2. Statutory Basis

The CHX believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[4] The proposed rule change is consistent with Section 6(b)(5) of the Act because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest by allowing the CHX to add and consolidate into a single rule certain requirements for products traded on the Exchange pursuant to UTP.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or 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 Act. Comments may be submitted by any of the following methods:

[4] 15 U.S.C. 78f(b)(5).

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CHX–2008–12 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

All submissions should refer to File Number SR–CHX–2008–12. 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 CHX. 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–CHX–2008–12 and should be submitted on or before October 16, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

This proposal would consolidate into a single rule various provisions related to UTP that have been established in other new products proposals previously approved by the Commission. Proposed CHX Rule 6 is closely modeled after similar rules of other national securities exchanges[6] and does not raise any novel issues. The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. Accelerated approval of this proposal will expedite the trading of additional products by the Exchange, subject to consistent and reasonable standards. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act, to approve the proposed rule change on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–CHX–2008–12) is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E8–22463 Filed 9–24–08; 8:45 am]

BILLING CODE 8010–01–P

[5] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[6] *See* Securities Exchange Act Release Nos. 57806 (May 9, 2008), 73 FR 28541 (May 16, 2008) (SR–Phlx–2008–34) (approving amendment to Phlx Rule 136 and adoption of Phlx Rule 803(o)) and 57448 (March 6, 2008), 73 FR 13597 (March 13, 2008) (SR–NSX–2008–05) (approving NSX Rule 15.9).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58607 ; File No. SR–NYSE–2008–86]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Proposing To Temporarily Suspend the Requirements of NYSE Rule 311 and Related NYSE Rules Concerning the Approval of New Member Organizations in Order To Approve Barclays Capital Inc. as an NYSE Member Organization

September 19, 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 September 19, 2008, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing with the Commission.[6] 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 is proposing to temporarily suspend the requirements of NYSE Rule 311 and related NYSE rules concerning the approval of new member organizations in order to approve Barclays Capital Inc. (''BCI'') as an NYSE member organization, subject to BCI's complying with Exchange rules for a new member organization within 60 days of the date that BCI is provisionally approved as an NYSE member organization.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] NYSE gave the Commission written notice of its intention to file the proposed rule change on September 19, 2008. The Commission reviewed the proposed rule change and gave NYSE permission to file the proposed the rule change on the same day. NYSE asked the Commission to waive the 30-day operative delay. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes this rule filing to temporarily suspend the requirements of NYSE Rule 311 and related rules regarding the approval of member organizations in order to immediately approve as an NYSE member organization the entity that acquires the assets of Lehman Brothers Inc. (''LBI''). The Exchange proposes this temporary suspension on an emergency basis to ensure that the acquiring entity, Barclays Capital Inc. (''BCI''), which is a U.S. registered broker dealer and FINRA member, will be able to expeditiously complete its proposed acquisition of certain LBI assets and begin operating former LBI business lines, including its specialist operations, as early as September 22, 2008. This proposed temporary suspension is contingent upon BCI having applied for and been approved as a new member organization pursuant to Exchange rules within 60 days of the date that BCI is provisionally approved as an NYSE member organization pursuant to this filing.

a. Background

A. Lehman Files for Bankruptcy

On September 15, 2008, Lehman Brothers Holding Inc. (''Lehman'') filed for bankruptcy protection in the United States Bankruptcy Court for the Southern District of New York under Chapter 11 of the U.S. Bankruptcy Code. Lehman is the parent holding company of LBI, which is a registered broker dealer and NYSE member organization. Lehman filing for Chapter 11 protection was just one of the many unprecedented events that have affected our markets in the last two weeks.[7]

Although LBI did not file for bankruptcy protection at that time, Lehman's Chapter 11 status impaired LBI's ability to continue operations. For example, out of concern that Lehman Brothers MarketMakers (''LBMM''), the division of LBI that is approved as a specialist operation at the Exchange, might not have sufficient capital to meet both federal and NYSE rule requirements governing specialists, on September 15, 2008, pursuant to NYSE Rule 103.11, the Exchange temporarily reallocated Lehman Brothers MarketMakers securities to Spear, Leeds & Kellogg Specialists LLC (''Spear Leeds'').

On September 17, 2008, Barclays Bank PLC (''Barclays''), a global financial services provider, announced that it had agreed to acquire the LBI investment banking and capital markets operations and supporting infrastructure for $1.75 billion (the ''proposed acquisition''). As part of the proposed acquisition, Barclays would be acquiring the LBI fixed income and equities sales, trading and research, and investment banking businesses, including LBMM (the ''LBI businesses''). Barclays would also be acquiring approximately 10,000 LBI employees, the Lehman headquarters located at 745 Seventh Avenue in New York City, and two data centers located in New Jersey.

The proposed acquisition is subject to a number of conditions, including approval by the United States Bankruptcy Court for the Southern District of New York and other regulatory approvals and antitrust review. Moreover, if the proposed acquisition is not completed by September 24, 2008, Barclays may terminate the agreement to acquire LBI businesses.

B. Barclays Will Transfer LBI Assets to BCI

On September 19, 2008, Barclays announced that certain LBI assets, including its employees and businesses, will be transferred to its wholly-owned subsidiary, BCI. BCI is a registered U.S. broker dealer and FINRA member. However, BCI is not currently approved as an NYSE member organization.

The Exchange understands that LBI will likely file for some form of bankruptcy protection on Friday, September 19, 2008, and thus by the close of business on Friday, LBI will be in the control of a trustee. The Exchange further understands that, subject to approval by the bankruptcy court, as part of the bankruptcy proceeding, LBI assets will be sold to Barclays and transferred to BCI. Accordingly, as early as September 19, 2008, BCI may own and control the LBI businesses.

b. Proposed Temporary Suspension of NYSE Rule 311 and Related Rules

A. Background

NYSE Rule 311 requires any person who proposes to form a member organization to notify the Exchange in writing and submit such information as may be required by NYSE rules. Unlike the Act, when a corporate acquisition concerns an asset transfer only, and not an acquisition of the corporate entity, NYSE member organization status cannot be transferred to the acquiring entity; the entity that proposes to continue the business operations of the predecessor member organization must be separately approved as an NYSE member organization.

Among other things, to be approved as an NYSE member organization, the applicant must:

- Provide the Exchange with a written application with the name and address of the applicant as well as a list of all proposed parties required to be approved under NYSE Rules 304 and 311 (NYSE Rule 311.11).
- Ensure that all persons associated with the applicant, including corporate directors or general partners, as applicable, persons in control of the applicant, and any person who meets the requirements of an approved person under NYSE Rule 304, is approved as a member or approved person (NYSE Rule 311(b)).
- Submit to the Exchange partnership or corporate documents as may be applicable, including certificate of incorporation, by-laws, and other corporate documents (NYSE Rule 313.10 or .20).
- Provide the Exchange with an opinion of counsel that, among other things, the corporation is duly organized and existing, its stock is validly issued and outstanding, and that the restrictions and provisions required by the Exchange on the transfer, issuance, conversion, and redemption of its stock have been made legally effective (NYSE Rule 313.20).

[7] On September 8, 2008, the U.S. Treasury Department took over the federally charted mortgage companies Freddie Mac and Fannie Mae and replaced their executive teams. This week, in addition to the Lehman bankruptcy, Bank of America agreed to acquire Merrill Lynch in an all-stock transaction, the federal government bailed out American International Group, Inc. with a $85 million loan and took control of the company, Morgan Stanley and Goldman, Sachs & Co.—the two remaining independent U.S. investment banks—experienced sharp stock declines despite reporting positive earnings, and the Securities and Exchange Commission (''SEC'' or the ''Commission'') has issued multiple emergency orders amending the rules governing short selling.

In addition, the Exchange reviews whether the applicant meets federal and NYSE capital requirements and whether it has adopted controls and procedures to comply with Exchange rules. For example, an applicant that seeks approval to operate a specialist business pursuant to NYSE Rule 103 must demonstrate that it has policies and procedures in compliance with the NYSE rules governing trading by specialists, and if applicable, has been approved for an exemption for approved persons under NYSE Rule 98 (Former) or been approved to operate a specialist unit under NYSE Rule 98.

Due to the amount of information an applicant is required to provide and have completed prior to being approved as a member organization, the member organization approval process generally takes several months to complete. The length of the approval process varies depending on the timing of the applicant's response to requests for information and documentation.

B. A Temporary Suspension of NYSE Rule 311 and Related Rules for BCI is Consistent with the Act

As proposed, BCI will continue the business operations of LBI, including the LBMM specialist operations, in the same manner that they were operated by LBI. Because the bankruptcy proceeding for LBI will likely be on September 19, 2008, BCI could be eligible to continue LBI operations on Monday, September 22, 2008.

To ensure that BCI can continue the LBI operations without unnecessary interruption, including all operations that required LBI to be a member organization of the NYSE, such as the specialist operations and entering orders directly with the Exchange, the Exchange believes that BCI should be approved immediately as an NYSE member organization. The Exchange notes that BCI is already a registered broker dealer and FINRA member, which are prerequisites to becoming an NYSE member organization. See NYSE Rule 2(b).

The Exchange therefore proposes providing BCI with a temporary suspension of NYSE Rules 304, 311, 312, and 313, as they relate to approval to operate an NYSE member organization and approval of a proposed member organization's approved persons, and immediately approve BCI as a member organization. As proposed, this temporary suspension is contingent upon:

- BCI's providing the Exchange with sufficient information to confirm that BCI will meet its capital requirements as an NYSE member organization; and
- Within 60 days of BCI's approval as an NYSE member organization under this proposed filing, BCI and its approved persons will have applied for and complied with the Exchange's new member organization requirements, as set forth in NYSE Rules 304, and 311–313.

Moreover, the Exchange proposes that in addition to being approved as an NYSE member organization, to ensure that the LBMM operations can continue, BCI should also be deemed approved as a specialist under NYSE Rule 103. This approval is contingent upon BCI's certifying in writing to the Exchange that, for the period immediately following approval as an NYSE member organization until such time that BCI is independently approved as an NYSE member organization:

- BCI will maintain the existing LBMM technologies, staffing, supervisory structure, and written supervisory procedures with respect to the specialist operations;
- Both BCI and its approved persons, as defined under NYSE Rule 304, will comply with LBI's existing written supervisory procedures and information barriers between the LBMM specialist operations and the rest of the firm and its approved persons, pursuant to NYSE Rule 98 (Former); and
- BCI will maintain the minimum capital for specialists, as required both by federal rules and NYSE Rule 104.20 and 104.21.

Upon receipt of such written statement, the Exchange will approve BCI as a successor entity to LBI's registration as a specialist and will lift the current temporary allocation of LBMM's securities to Spear Leeds and formally allocate those securities to BCI. In addition, the Exchange will extend the Rule 98 (Former) exemption currently granted to LBI and its approved persons to BCI and its approved persons, including Barclays.

As proposed, if BCI does not apply for and be approved as a new NYSE member organization pursuant to Exchange rules within 60 days of the effective date of this filing, BCI's status as an approved NYSE member organization will no longer be effective.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act,[8] in that it is designed to prevent fraudulent and manipulative practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

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.

The NYSE has requested the Commission to waive the 30-day operative delay. The Commission hereby grants NYSE's request.[11] The Commission notes that the Exchange is proposing that certain of its rules relating to membership requirements be temporarily suspended so that BCI can be provisionally approved as an NYSE member organization. The proposed relief does not exempt BCI from Exchange rule requirements governing member organizations. BCI would have a 60-day grace period within which to apply for and be approved under relevant Exchange rules. Moreover, the Commission believes that immediate

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] For purposes of waiving the 30-day operative delay, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

effectiveness is appropriate to ensure a smooth transition of the LBI businesses to another entity. In particular, with respect to BCI, time is of the essence as it has been announced that BCI may succeed to LBI's assets as early as September 19, 2008. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and designates the proposed rule change as operative upon filing.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2008–86 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–2008–86. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com*. 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–2008–86 and should be submitted on or before October 16, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E8–22506 Filed 9–24–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58608; File No. SR–NYSEArca–2008–101]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. To Temporarily Suspend the Requirements of NYSE Arca Rule 2.4 and Related NYSE Arca Rules Concerning Options Trading Permit Holder Applications and Approvals In Order To Immediately Approve Barclays Capital Inc. as an NYSE Arca OTP Holder

September 19, 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 September 19, 2008, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing with the Commission.[6] 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 temporarily suspend the requirements of NYSE Arca Rule 2.4 and related NYSE Arca rules concerning Options Trading Permit (''OTP'') Holder applications and approvals in order to immediately approve Barclays Capital Inc. (''BCI'') as an NYSE Arca OTP Holder, subject to BCI complying with Exchange rules for applying to become an OTP Holder (and being approved by the Exchange) within 60 days of the date that BCI is provisionally approved as an NYSE Arca OTP Holder.

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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to temporarily suspend the requirements of NYSE Arca Rule 2.4 and related rules regarding the application and approval of OTP Holders in order to immediately approve, as an NYSE Arca OTP Holder, the entity that acquires the assets of Lehman Brothers Inc. (''LBI''). The Exchange proposes this temporary suspension on an emergency basis to ensure that the acquiring entity, Barclays Capital Inc. (''BCI''), which is a U.S. registered broker dealer and FINRA member, will be able to expeditiously complete its proposed acquisition of certain LBI assets and begin operating former LBI business lines, as early as September 22, 2008. This proposed temporary suspension is contingent upon BCI having applied for and been approved as a new NYSE Arca OTP Holder pursuant to Exchange rules within 60 days of the date that BCI is provisionally approved as an NYSE Arca OTP Holder pursuant to this rule filing.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] NYSE Arca gave the Commission written notice of its intention to file the proposed rule change on September 19, 2008. The Commission reviewed the proposed rule change and gave NYSE Arca permission to file the proposed the rule change on the same day. NYSE Arca asked the Commission to waive the 30-day operative delay. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

1. Background

A. Lehman Files for Bankruptcy

On September 15, 2008, Lehman Brothers Holding Inc. (''Lehman'') filed for bankruptcy protection in the United States Bankruptcy Court for the Southern District of New York under Chapter 11 of the U.S. bankruptcy code. Lehman is the parent holding company of LBI, which is a registered broker dealer and NYSE Arca OTP Holder.

Although LBI did not file for bankruptcy protection at that time, Lehman's Chapter 11 status impacted the ability of LBI to continue operations.

On September 17, 2008, Barclays Bank PLC (''Barclays''), a global financial services provider, announced that it had agreed to acquire the LBI investment banking and capital markets operations and supporting infrastructure for $1.75 billion (the ''proposed acquisition''). As part of the proposed acquisition, Barclays would be acquiring the LBI fixed income and equities sales, trading and research, and investment banking businesses, including Lehman Brothers Market Makers (''LBMM'') (the ''LBI businesses''). Barclays would also be acquiring approximately 10,000 LBI employees, the Lehman headquarters located at 745 Seventh Avenue in New York City, and two data centers located in New Jersey.

The proposed acquisition is subject to a number of conditions, including approval by the United States Bankruptcy Court for the Southern District of New York and other regulatory approvals and antitrust review. Moreover, if the proposed acquisition is not completed by September 24, 2008, Barclays may terminate the agreement to acquire LBI businesses.

B. Barclays Will Transfer LBI Assets to BCI

On September 19, 2008, Barclays announced that certain LBI assets, including its employees and businesses, will be transferred to its wholly-owned subsidiary, BCI. BCI is a registered U.S. broker dealer and FINRA member. However, BCI is not currently approved as an NYSE Arca OTP Holder.

The Exchange understands that LBI will likely file for some form of bankruptcy protection on Friday, September 19, 2008, and thus by the close of business on Friday, LBI will be in the control of a trustee. The Exchange further understands that, subject to approval by the bankruptcy court, as part of the bankruptcy proceeding, LBI assets will be sold to Barclays and transferred to BCI. Accordingly, as early as September 19, 2008, BCI may own and control the LBI businesses.

2. Proposed Temporary Suspension of NYSE Arca Rule 2.4 and Related Rules

A. Background

NYSE Arca Rule 2.4 requires any individual or organization applying to become an OTP Holder to complete an application and file it with the Exchange. NYSE Arca OTP Holder status cannot be transferred to the acquiring entity; the entity that proposes to continue the business operations of the predecessor member organization must be separately approved as an NYSE Arca OTP Holder.

B. A Temporary Suspension of NYSE Arca Rule 2.4 and Related Rules for BCI Is Consistent With the Act

As proposed, BCI will continue the business operations of LBI in the same manner that they were operated by LBI. Because the bankruptcy proceeding for LBI will likely be on September 19, 2008, BCI could be eligible to begin operations as an NYSE Arca OTP Holder on Monday, September 22, 2008.

To ensure that BCI can continue the LBI operations without unnecessary interruption, including all operations that required LBI to be an NYSE Arca OTP Holder, such as entering orders directly with the Exchange, the Exchange believes that BCI should be approved immediately as an NYSE Arca OTP Holder. The Exchange notes that BCI is already a registered broker dealer, which is a prerequisite to becoming an NYSE Arca OTP Holder. See NYSE Arca Rule 2.3.

The Exchange therefore proposes providing BCI with a temporary suspension of NYSE Arca Rules 2.4 and 2.23, as they relate to approval to operate as an NYSE Arca OTP Holder and approval of a proposed OTP Holder's approved persons, and immediately approve BCI as an OTP Holder. As proposed, this temporary suspension is contingent upon:

- BCI providing the Exchange with sufficient information to confirm that BCI will meet its capital requirements as an NYSE Arca OTP Holder; and
- Within 60 days of BCI's approval as an NYSE Arca OTP Holder under this proposed filing, BCI and its approved persons will have applied for and complied with the Exchange's new member organization requirements, as set forth in the Exchange's rules.

Moreover, the Exchange proposes that in addition to being approved as an NYSE Arca OTP Holder, to ensure that certain LBI market making operations can continue, BCI should also be deemed approved as a Market Maker as defined under NYSE Arca Rules 6.32A and 6.33. This approval is contingent upon BCI certifying in writing to the Exchange that, for the period immediately following approval as an NYSE Arca OTP Holder until such time that BCI is independently approved as an NYSE Arca OTP Holder:

- BCI will maintain the existing LBMM technologies, staffing, supervisory structure, and written supervisory procedures with respect to its market making operations; and
- Within 60 days of BCI's approval as an NYSE Arca OTP Holder under this proposed filing, BCI and its approved persons will have applied for registration as a Market Maker and will have been approved by the Exchange as a Market Maker, consistent with the Exchange's requirements for registration as a Market Maker pursuant to NYSE Arca Rule 6.33(a).

Upon receipt of such written statement, the Exchange will approve BCI as a successor entity to LBI's registration as a Market Maker on the Exchange.

As proposed, if BCI does not apply for and be approved as a new NYSE Arca OTP Holder pursuant to Exchange rules within 60 days of the effective date of this filing, BCI's provisional status as an approved NYSE Arca OTP Holder will no longer be effective.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

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 proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

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.

NYSE Arca has requested the Commission to waive the 30-day operative delay. The Commission hereby grants NYSE Arca's request.[11] The Commission notes that the Exchange is proposing that certain of its rules relating to membership requirements be temporarily suspended so that BCI can be provisionally approved as an NYSE Arca OTP Holder. The proposed relief does not exempt BCI from Exchange rule requirements governing member organizations. BCI would have a 60-day grace period within which to apply for and be approved under relevant Exchange rules. Moreover, the Commission believes that immediate effectiveness is appropriate to ensure a smooth transition of the LBI businesses to another entity. In particular, with respect to BCI, time is of the essence as it has been announced that BCI may succeed to LBI's assets as early as September 19, 2008. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and designates the proposed rule change as operative upon filing.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2008–101 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–NYSEArca–2008–101. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at NYSE Arca's principal office and on its Internet Web site at *http://www.nyse.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2008–101 and should be submitted on or before October 16, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E8–22504 Filed 9–24–08; 8:45 am]

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[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] For purposes of waiving the 30-day operative delay, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58586; File No. SR–OCC–2008–16]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to the Cash Dividend Threshold

September 18, 2008.

I. Introduction

On July 24, 2008, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–OCC–2008–16 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on August 19, 2008.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

The purpose of the proposed rule change is to mitigate inconsistencies that may result under the current policy for adjusting stock option contracts. In February 2007, the Commission approved rule change SR–OCC–2006–01, which amended Section 11A of Article VI of the OCC By-Laws governing adjustments to options as a result of cash dividends or distributions.[3] Under the new adjustment policy, cash dividends paid by a company other than pursuant to a policy or practice of paying dividends on a quarterly or other regular basis would be deemed ''special'' and would normally trigger a contract adjustment provided the value of the adjustment is at least $12.50 per option contract. This new adjustment policy will become effective for cash dividends announced on or after February 1, 2009.

However, certain inconsistencies may result when the threshold of ''$12.50 per option contract'' is applied to all

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 58353 (August 13, 2008), 73 FR 48423.

[3] Securities Exchange Act Release No. 55258 (February 8, 2007), 72 FR 7701 (February 16, 2007).

options on the affected underlying security. For example, if a $.10 special cash dividend is declared, the standard-size 100 share option would not be adjusted (because the value is less than $12.50). However, a previously adjusted 150 share option (reflecting a 3 for 2 split) would be adjusted (because the value is $15 per contract). Adjusting some but not all options of the same class in response to the same dividend event, especially if the 100 share option is not adjusted, could be confusing to investors. OCC's Securities Committee (consisting of representatives of each of the options exchanges and OCC) determined that this potential confusion should be avoided.

OCC considered modifying the threshold to specify $.125 per share instead of $12.50 per contract. This approach would address all standard-size (100 share) contracts that currently exist plus adjusted contracts that come into existence in response to splits, *etc.* However, exchanges have proposed to introduce ''maxi'' size contracts. Applying the same per share threshold to a 1,000 and 100 share option could sometimes result in significant value being left on the table in the case of the 1,000 share option. Taking the same example of a $.10 per share special dividend, neither option would be adjusted if the threshold were $.125 per share. This would result in a loss of only $10 per contract for the 100 share option, but the loss would be $100 per contract for the 1,000 share option. For this reason, a per share threshold is not being proposed.

Greater consistency across contracts of varying sizes can be achieved by retaining the $12.50 per contract threshold in all cases but adding a qualification specifying that if a corresponding standard-size contract exists on the underlying security, previously adjusted contracts will be adjusted only if the corresponding standard-size contract is also adjusted. For example, if a 100 share option and a 150 share option (previously adjusted for a 3 for 2 split) exist, the 150 share option would be adjusted for a special cash dividend only if the 100 share standard option would also be adjusted for that dividend. Stated differently, OCC will refer back to the preadjustment standard-size option (if any exist) in deciding whether or not to adjust a previously adjusted option. Thus a 150 share option that was derived from a 100 share option as a result of a 3 for 2 split will be referred back to the 100 share option. A 1,500 share option (previously adjusted for a 3 for 2 split) will be referred back to the 1,000 share option (the ''standard'' size option for a ''maxi'' contract). Thus, the qualification specifies ''only if the corresponding standard-size option contract is also adjusted.''

This qualification achieves greater consistency because in most cases all contracts on the same underlying security would be adjusted if the 100 share contract is adjusted. The qualification also would allow a 1,000 share ''standard'' contract to be adjusted independently of a 100 share contract. Also, it could happen that an adjusted contract exists but not the corresponding standard contract, or a contract calling for delivery of fewer than 100 shares may exist (*e.g.*, as a result of a spinoff adjustment). In these cases, the qualification would be inapplicable and a straightforward application of the $12.50 threshold would determine whether an adjustment would be made. The following are examples of the qualification to the $12.50 per contract threshold.

(A) If a corresponding standard size contract exists:

Shares	Contract	$.09 dividend ($value)	Adjust?	$.13 dividend ($value)	Adjust?
100	Standard	9.00	NO	13.00	YES.
133	4/3 split	11.97	NO	17.29	YES.
150	3/2 split	13.50	NO	19.50	YES.
10	Spinoff	0.90	NO	1.30	NO.
177	Merger	15.93	NO	23.01	YES.
1000	Standard	90.00	YES	130.00	YES.
1500	3/2 split	135.00	YES	195	YES.

Shares	Contract	$.02 dividend ($value)	Adjust?	$.01 dividend ($value)	Adjust?
100	Standard	2.00	NO	1.00	NO.
133	4/3 split	2.66	NO	1.33	NO.
150	3/2 split	3.00	NO	1.50	NO.
10	Spinoff	0.20	NO	0.10	NO.
177	Merger	3.54	NO	1.77	NO.
1000	Standard	20.00	YES	10.00	NO.
1500	3/2 split	30.00	YES	15.00	NO.

(B) If the 100 share standard size contract does not exist:

Shares	Option	$.09 dividend ($value)	Adjust?	$.13 dividend ($value)	Adjust?
133	4/3 split	11.97	NO	17.29	YES.
150	3/2 split	13.50	YES	19.50	YES.
10	Spinoff	0.90	NO	1.30	NO.
177	Merger	15.93	YES	23.01	YES.
1000	Standard	90.00	YES	130.00	YES.
1500	3/2 split	135.00	YES	195	YES.

The new adjustment policy approved in File No. SR–OCC–2006–01 will take effect beginning with dividends announced on and after February 1, 2009. OCC intends this proposed rule change to take effect at the same time, but these changes will not be implemented until the exchanges have conducted appropriate educational efforts and definitive copies of an appropriate supplement to the options disclosure document, *Characteristics and Risks of Standardized Options*, are available for distribution.

III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[4] The Commission finds the proposed rule change to be consistent with this requirement because it should reduce inconsistencies in the adjustment of stock option contracts. As a result, OCC's proposed rule change should promote the prompt and accurate clearance and settlement of securities transactions.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2008–16) be and hereby is approved.[5]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Lynn Talyor,

Assistant Secretary.

[FR Doc. E8–22488 Filed 9–24–08; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11434]

Maine Disaster #ME–00014

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 Maine (FEMA–1788–DR), dated 09/09/2008.

Incident: Severe Storms, Flooding, and Tornadoes.

Incident Period: 07/18/2008 through 08/16/2008.

DATES: *Effective Date:* 09/09/2008.

Physical Loan Application Deadline Date: 11/10/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 06/10/2009.

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 09/09/2008, 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: Androscoggin, Cumberland, York.

Contiguous Counties (Economic Injury Loans Only):

Maine: Franklin, Kennebec, Oxford, Sagadahoc.

New Hampshire: Carroll, Strafford.

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 11434.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E8–22520 Filed 9–24–08; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes a revision to an OMB-approved information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, e-mail, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and the SSA Reports Clearance Officer to the addresses or fax numbers listed below.

(OMB), Office of Management and Budget, *Attn:* Desk Officer for SSA, *Fax:* 202–395–6974, *E-mail address: OIRA_Submission@omb.eop.gov* .

(SSA), Social Security Administration, DCBFM, *Attn:* Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, *Fax:* 410–965–6400, *E-mail address: OPLM.RCO@ssa.gov*.

The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. Therefore, your comments would be most helpful if you submit them to SSA within 60 days from the date of this publication. Individuals can obtain copies of the collection instrument by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the e-mail address listed above.

1. Accelerated Benefits Demonstration Project—0960–0747

Background

In early 2007, SSA obtained OMB approval for the Accelerated Benefits Demonstration Project. This multi-phase study, conducted by SSA's research contractors and health care experts, will assess if providing new Social Security Disability Insurance (SSDI) recipients with health care and other benefits would stabilize or improve their health and help them return to work early. In this long-term study, SSA's contractor divided new SSDI recipients into three

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 17 CFR 200.30–3(a)(12).

groups: (1) A control group who would receive just regular SSDI benefits; (2) a treatment group who would receive immediate access to health care benefits; and (3) a treatment group who would receive health care benefits and additional care management, employment, and benefits services and support.

Update/Current Information Collection Request (ICR)

Having conducted baseline and 6-month follow-up surveys with the three participant groups, SSA is now ready to move on to the next phase of the study: a 12-month followup survey. This ICR is for the 12-month followup survey, which we plan to conduct beginning in March 2009. We will use telephone interviews for the survey, with in-person followup for non-responders as necessary. We will attempt to contact all 2,000 participants and expect to complete followup interviews with 1,600 of them (80 percent). The survey is intended to explore participants' experiences after one year in the program, which will provide initial data on the effects of the health care and ''heath care plus'' treatments. The respondents are SSDI beneficiaries participating in the Accelerated Benefits Demonstration Project.

Burden Data for 12-Month Follow-Up Survey

Type of Request: Revision to an existing OMB-approved information collection.

Number of Respondents: 1,600.

Frequency of Response: 1.

Average Burden Per Response: 45 minutes.

Estimated Annual Burden: 1,200 hours.

2. SSI Notice of Interim Assistance Reimbursement (IAR)—0960–0546

Section 1631(g) of the Social Security Act authorizes SSA to reimburse a state or local interim assistance reimbursement (IAR) agency from an individual's initial retroactive Supplemental Security Income (SSI) payment for assistance the IAR agency gave the individual for meeting basic needs while an SSI claim was pending or SSI benefits were suspended or terminated. Under the IAR process, agencies are required to conduct an evaluation to determine if the applicant is disabled or employable. There are individual state general assistance requirements that the claimant must meet for IAR benefits. If the claimant meets these requirements, the IAR agency and the claimant enter into an agreement. Claimants also sign an authorization with an IAR agency to allow SSA to repay the IAR agency for funds paid in advance prior to eligibility approval. To be eligible for IAR benefits, the claimant must file or have filed an SSI claim.

Agencies who wish to enter into an IAR agreement with SSA must meet the following requirements:

(a) *Reporting Requirements*. Each IAR agency agrees to: (1) Notify SSA of receipt of authorization for new IAR claims and submit a copy of that authorization; (2) inform SSA of the amount of reimbursement; (3) submit a written request for dispute resolution on a determination; (4) notify SSA of interim assistance rendered (through the SSA–8125 and SSA–L8125, or electronically); (5) inform SSA of any deceased claimants who participate in the IAR program; and (6) review and sign an agreement with SSA.

(b) *Recordkeeping Requirements:* The IAR agencies agree to retain all notices, agreement, authorizations, and accounting forms for the period defined in the IAR agreement for the purposes of SSA verifying transactions covered under the agreement.

(c) *Third Party Disclosure Requirements:* Each participating IAR agency must agree to send written notices from the IAR agency to the recipient regarding payment amounts.

(d) *Periodic Review of Agency Accounting Process:* The IAR agency must make available for SSA review and verification the IAR accounting records of paid cases. SSA conducts an onsite review of the authorization forms, notices to the claimant and accounting forms. Upon completion of the review, SSA provides a written report of findings to the IAR agency director.

SSA is currently in the process of automating the IAR process. SSA completed Phase 1 of the automated process, called eIAR, in June 2008 by creating a database that will allow real-time updates for IAR cases. Phase 2 (targeted for 2009) will eliminate the paper Forms SSA–8125 and SSA–L8125–F6. SSA will receive and send all exchanges of information through electronic mail (email) and a secure Internet site. The eIAR process will store IAR agency accounting and SSA payment data for use by SSA regional office staff for auditing the IAR agency records. The IAR agency will have access to IAR information (past and present) for their purposes. Respondents are IAR agencies.

Type of Request: Revision of an OMB-approved information collection.

REPORTING REQUIREMENTS

Type of request	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated annual burden hours (hours)
Notification of Receipt of Authorization (Electronic Process)	11	8,856	97,416	1	1,624
Submission of Copy of Authorization (Manual Process)	26	792	20,592	3	1,030
Notification to SSA of Amount of Reimbursement	39	577	22,503	30	11,252
Request for Determination—Dispute Resolution	2	1	2	15	1
Form SSA–8125	39	1,282	49,998	10	8,333
Form SSA–L8125–F6	39	1,282	49,998	10	8,333
eIAR Process	39	2,564	99,996	8	13,333
Notification to SSA of Deceased Claimant	20	2	40	15	10
Review/Signing Agreements	39	1	39	*12	468

*Hours.

RECORDKEEPING REQUIREMENTS

	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated annual burden hours
Maintenance of Authorization Forms	39	3,189	124,371	3	6,219
Maintenance of Accounting Forms and Notices	39	3,189	124,371	3	6,219

THIRD PARTY DISCLOSURE REQUIREMENTS

	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated annual burden hours
Written Notice From IAR Agency to Recipient Regarding Amount of Payment	39	576	22,464	7	2,621

PERIODIC REVIEW OF AGENCY ACCOUNTING PROCESS

	Number of respondents	Frequency of response	Number of responses	Average burden per response (hours)	Estimated annual burden hours
Retrieve and Consolidate Authorization and Accounting Forms	12	1	12	3	36
Participate in Periodic Review	12	1	12	16	192
Correct Administrative and Accounting Discrepancies	6	1	6	4	24

TOTAL ADMINISTRATIVE BURDEN

	Number of respondents	Frequency of response	Number of responses	Average burden per response	Estimated annual burden hours
Totals	39		611,820		59,695

Date: September 18, 2008.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E8–22642 Filed 9–24–08; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 6369]

Executive Order 11423, as Amended; Notice of Receipt of Application To Amend Presidential Permit for an International Bridge on the U.S.-Mexico Border at Brownsville, TX and Matamoros, Tamaulipas, Mexico

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State hereby gives notice that, on September 4, 2008, it received an application to amend the Presidential Permit that authorizes the construction, operation, and maintenance of the Veterans International Bridge at Los Tomates on the U.S.-Mexico border at Brownsville, Texas and Matamoros, Tamaulipas, Mexico. Cameron County, Texas filed the application and is acting as the project sponsor. Cameron County proposes to build a second bridge, essentially identical to the existing four-lane bridge, to accommodate increasing traffic volume, to improve pedestrian safety, and to allow more efficient separation of different types of traffic as it approaches the border station owned by the General Services Administration and operated by the Bureau of Customs and Border Protection of the Department of Homeland Security. The proposed second bridge would not require changes to the border station itself.

The Department of State's jurisdiction over this application is based upon Executive Order 11423 of August 16, 1968, as amended. As provided in E.O. 11423, the Department is circulating this application to relevant federal and state agencies for review and comment. Under E.O. 11423, the Department has the responsibility to determine, taking into account input from these agencies and other stakeholders, whether this proposed amendment to the existing Presidential Permit is in the U.S. national interest.

DATES: Interested members of the public are invited to submit written comments regarding this application on or before November 24, 2008 to Mr. Daniel Darrach, U.S.-Mexico Border Affairs Coordinator, via e-mail at *WHA-BorderAffairs@state.gov,* or by mail at WHA/MEX—Room 3909, Department of State, 2201 C St., NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Darrach, U.S.-Mexico Border Affairs Coordinator, via e-mail at *WHA–BorderAffairs@state.gov;* by phone at 202–647–9894; or by mail at WHA/MEX—Room 3909, Department of State, 2201 C St., NW., Washington, DC 20520. General information about Presidential Permits is available on the Internet at *http://www.state.gov/p/wha/rt/permit/.*

SUPPLEMENTARY INFORMATION: This application and supporting documents are available for review in the Office of Mexican Affairs, Border Affairs Unit, Department of State, during normal business hours.

Dated: September 19, 2008.

Alex Lee,

Director, Office of Mexican Affairs, Department of State.

[FR Doc. E8–22581 Filed 9–24–08; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF STATE

[Public Notice 6367]

Advisory Committee on Democracy Promotion (ACDP) Meeting Notice; Notice of Public Meeting

A meeting of the Advisory Committee on Democracy Promotion will be held on Wednesday, October 8, 2008 in Room Number 1105, U.S. Department of State, 2201 C Street, NW., Washington, DC. The meeting will be held from 10:30 a.m.–12 p.m. and will be open to the public, up to the capacity of the meeting room. The Committee members will discuss various issues relating to strategies to promote democratic governance, with Secretary Rice leading the discussion from 11 a.m.–11:30 a.m.

Entry to the main State Department building is controlled and will require advance arrangements. Members of the public wishing to attend this meeting should, by close of business on Friday, October 3, 2008, notify Sam Patten in the Office of the Under Secretary for Democracy and Global Affairs at the contact information indicated below—of their name, date of birth, valid government-issued ID number (see below), and citizenship, in order to arrange admittance. This includes admittance for government employees as well as others.

All attendees must use the ''C'' Street entrance of the Department, after being screened through the exterior screening facilities, and arrive by 10:15 a.m. One of the following valid IDs will be required for admittance: Any U.S. driver's license with photo, a passport, or a U.S. Government agency ID. Because an escort is required at all times, attendees should expect to remain in the meeting throughout the entire meeting.

For more information, contact Sam Patten, Special Assistant to the Under Secretary for Democracy and Global Affairs, Department of State, Washington, DC 20520, telephone: (202) 647–9108, e-mail *pattenws@state.gov.*

Dated: September 19, 2008.

Paula Dobriansky,

Under Secretary for Democracy and Global Affairs, Department of State.

[FR Doc. E8–22579 Filed 9–24–08; 8:45 am]

BILLING CODE 4710–18–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket Number: OST–95–179 and OST–95–623; [OMB Control #: 2105–0537]

Agency Information Collection; Request for Comments; Clearance and Renewal of a Previously Approved Collection; Disclosure of Codesharing Arrangements and Long-Term Wet Leases

AGENCY: Office of the Secretary (OST).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 *et seq.*) this notice announces that the Information Collection Request, abstracted below, is being forwarded to the Office of Management and Budget for renewal and comment. The ICR describes the nature of the information collection and its expected cost burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 11, 2008 [FR Vol. 73, pages 40008—40010]. No comments were received.

DATES: Written comments on this notice should be received on or before October 27, 2008 and submitted to the attention of the DOT/OST Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503 with the associated OMB Approval Number 2105–0537 and Dockets OST–95–179 and OST–95–623.

FOR FURTHER INFORMATION CONTACT: Aleta Best, Office of the Assistant Secretary for Aviation and International Affairs, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 493–0797.

SUPPLEMENTARY INFORMATION:

Title: Disclosure of Codesharing Arrangements and Long-Term Wet Leases.

OMB Control Number: 2105–0537.

Expiration Date: November 30, 2008.

Type of Review: Renewal and Approval of a previously approved collection.

Respondents: All U.S. air carriers, foreign air carriers, computer reservations systems (CRSs), and travel agents doing business in the United States, and the traveling public.

Number of Respondents: 16,000, excluding travelers.

Number of Responses: 317,000,000.

Total Annual Burden: 1,306,366 hours.

Abstract: U.S. airlines, foreign airlines, and travel agents will provide oral, written and Internet notification to air travelers containing pertinent information about codesharing and long-term wet leases at the time the consumer is considering the purchase of air transportation and for use during the traveler's journey. This information is intended to aid the prospective consumer in making a more informed choice regarding the purchase of air transportation, and to facilitate travel by reducing the possibility that the traveler will be misled or confused before and during his or her trip. Since the purpose of this regulation is to ensure that consumers have complete information about the air transportation they are considering for purchase, there are no issues of confidentiality involved.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have a practical utility; (b) the accuracy of the Department's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information collection; (d) ways to minimize the burden of the collection of information on respondents, by the use of electronic means, including the use of automated collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington, DC on September 18, 2008.

Todd M. Homan,

Director, Office of Aviation Analysis.

[FR Doc. E8–22635 Filed 9–24–08; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of

information was published on June 19, 2008, vol. 73, no. 119, page 34972–34973. The requested information is included in air carriers' applications for insurance when insurance is not available from private sources.

DATES: Please submit comments by October 27, 2008.

FOR FURTHER FORMATION CONTACT: Carla Mauney at *Carla.Mauneyfaa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Aviation Insurance.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0514.

Form(s): There are no FAA forms associated with this collection.

Affected Public: An estimated 61 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 2.23 hours per response.

Estimated Annual Burden Hours: An estimated 616 hours annually.

Abstract: The requested information is included in air carriers' applications for insurance when insurance is not available from private sources.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

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 estimates 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 in Washington, DC, on September 17, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E8–22457 Filed 9–24–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Centennial Airport, Englewood, CO; FAA Approval of Noise Compatibility Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice, Noise compatibility program.

SUMMARY: The FAA's **Federal Register** Notice entitled ''Approval of Noise Compatibility Program; Centennial Airport, Englewood, CO;'' published August 21, 2008, published with several inaccuracies. Because of those inaccuracies we withdraw the August 21, 2008 notice (73 FR 49635) and are issuing this notice to replace the August 21, 2008 notice. The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Arapahoe County Public Airport Authority for the Centennial Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150, Airport Noise Compatibility Planning. These findings are made in recognition of the description of federal and non-federal responsibilities in Senate Report No. 96–52 (1980). On August 12, 2008, FAA Airports Division Manager approved the Centennial Airport noise compatibility program. Of the twelve proposed program elements, FAA approved eight and reserved approval of another two measures pending further study. The remaining two measures were disapproved.

DATES: *Effective Date:* The effective date of the FAA's approval of the Centennial Airport noise compatibility program is August 12, 2008.

FOR FURTHER INFORMATION CONTACT: Linda Bruce, Federal Aviation Administration, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249–6361, Telephone (303) 342–1264. Documents reflecting this FAA action may be obtained from Ms. Bruce or on the Internet at *http://www.faa.gov/airports-airtraffic/airports/regional-guidance/northwest-mountain/environmental/.*

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Centennial Airport noise compatibility program, effective August 12, 2008.

Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter the Act), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps.

The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with 14 CFR Part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport sponsor with respect to which measures should be recommended for action. The FAA's approval or disapproval of Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

(a) The noise compatibility program was developed in accordance with the provisions and procedures of 14 CFR Part 150;

(b) Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

(c) Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the federal government; and

(d) Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the FAA Administrator, as prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in Part 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute a FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action.

Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982. Where Federal funding is sought, the airport sponsor must submit requests for project grants to the FAA Denver Airports District Office in Denver, Colorado.

The Centennial Airport study contains a proposed noise compatibility program comprised of actions designed for implementation by airport management and adjacent jurisdictions from the date of study completion to beyond the year 2012. The Arapahoe County Public Airport Authority, Englewood, CO, requested that the FAA evaluate and approve this material as a noise compatibility program for the Centennial Airport, as described in Section 104(b) of the Act. The FAA began its review of the program on February 22, 2008, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such a program within the 180-day period shall be deemed to be an approval of such a program.

The submitted program contained 12 proposed actions to address noise on and off the airport. The FAA completed its review and determined that the overall program complied with procedural and substantive requirements of the Act and Part 150. The overall program, therefore, was approved by FAA effective August 12, 2008.

FAA granted outright approval for five of the specific program recommendations. One of these approved elements involves voluntary measures that the airport sponsor can encourage pilots to use to help minimize aircraft noise. The other four approved recommendations involve program management and are intended to assist in the development and operations of a noise abatement office and noise monitoring efforts. These measures include the installation of a permanent noise monitoring system to monitor noise levels and compliance with noise abatement measures and the use of a public advisory committee to monitor programs implemented as a result on the adoption of the NCP, including the Noise Monitoring Program.

FAA approved in part the NCP recommendation that addresses land use planning. This recommendation involves the airport authority working with the local municipalities to amend zoning requirements, comprehensive plans and development regulations to minimize new, noncompatible land uses near the airport and to minimize the impact on airspace surrounding the airport, including 14 CFR Part 77 imaginary surfaces. FAA disapproved for Part 150 purposes portions of this recommendation related to airspace issues regulated under Part 77.

In addition, the airport sponsor proposes four changes to flight procedures. One of these measures, a change to nighttime flight procedures for jets departing to the north, FAA approved, subject to further environmental review and air traffic operational safety and efficiency. FAA also approved, for Part 150 purposes, the elimination of the preferential runway procedure.

FAA disapproved the remaining two program elements that involve proposed changes to flight procedures. FAA Air Traffic Control determined these procedures would create numerous adverse impacts to safety and efficiency of air traffic control operations. These procedures would have tested 24-hour flight tracks between 350 and 010 degree headings and implemented a 170 degree departure heading to 4 DME or 8,000 MSL (± 20 degrees).

The airport sponsor also proposes banning certain type of aircraft operations. In particular, the airport sponsor proposes the ban of Stage I aircraft under 75,000 lbs. from operating at Centennial Airport but did not provide data supporting the noise benefit of such a ban, per Part 150 requirements. For this reason, the FAA disapproved this recommendation pending further study. The Arapahoe Public Airport Authority may submit this additional information to FAA for further evaluation.

FAA also disapproved the proposed ban of Stage 2 aircraft between the hours of 10 p.m. and 6 a.m., pending additional information needed from the airport sponsor, as required under 14 CFR Part 161. The Arapahoe Public Airport Authority studied the noise benefit of such a ban and describes this benefit in its NCP. While this meets the requirements of Part 150, Part 161 requires additional FAA review and approval to determine the impact of such a ban on air commerce and the national airspace system prior to implementing the ban.

FAA's determinations are set forth in detail in a Record of Approval endorsed by the FAA Airports Division Manager on August 12, 2008. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office and Internet site listed above and at the administrative offices of the Arapahoe County Public Airport Authority, Englewood, CO.

Re-issued in Renton, Washington, on August 25, 2008.

Donna P. Taylor,

Manager, Airports Division, FAA Northwest Mountain Region.

[FR Doc. E8–22460 Filed 9–24–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requirements for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than November 24, 2008.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop–25, Washington, DC 20590, or Ms. Nakia Jackson, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number 2130–0571.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6216 or (202) 493–6497, or via e-mail to Mr. Brogan at *robert.brogan@dot.gov*, or to Ms. Jackson at *nakia.jackson@dot.gov*. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in

response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Nakia Jackson, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6073). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to provide 60 days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(i)–(iv); 5 CFR 1320.8(d)(1)(i)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. See 44 U.S.C. 3501.

Below is a brief summary of currently approved information collection activities that FRA will submit for clearance by OMB as required under the PRA:

Title: Occupational Noise Exposure for Railroad Operating Employees.

OMB Control Number: 2130–0571.

Abstract: The collection of information is used by FRA to ensure that railroads covered by this rule establish and implement—by specified dates—noise monitoring, hearing conservation, and audiometric testing programs, as well as hearing conservation training programs, to protect their employees against the damaging and potentially dangerous effects of excessive noise in the everyday rail environment.

Affected Public: Businesses.

Respondent Universe: 460 railroads.

Frequency of Submission: On occasion.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
227.9—Waivers	460 Railroads	5 petitions	60 minutes	5
227.103—Noise Monitoring Program	460 Railroads	460 programs	2 hours/8 hours/600 hours.	5,165
—Notification of Employee of Monitoring	460 Railroads	905 lists	30 minutes	453
227.107—Hearing Conservation Program (HCP)	460 Railroads	461 HCPs	150 hrs/2 hrs/31 hrs/7.5 hours.	2,875
—Revised Hearing Conservation Programs (HCPs).	460 Railroads	92 HCPs	1.74 hours	160
227.109—Audiometric Testing Program—Existing Employees—Baseline Audiograms.	78,000 Employees	60,000 audiograms + 6,000 audiograms.	7 min./25 minutes	7,000 + 2,500
—Periodic Audiograms	78,000 Employees	8,000 audiograms	25 minutes	3,333
—Evaluation of Audiograms	78,000 Employees	2,330 evaluations + 93 retests.	6 min./2.5 hours	466
—Problem Audiograms	8,000 Employees	45 documents	10 minutes	8
—Follow-up Procedures—Notifications	8,000 Employees	93 notifications	15 minutes	24
—Fitting/Training of Employees: Hearing Protectors.	240 Employees	240 tr. sessions	2 minutes	8
—Referrals for Clinical/Otological Examinations.	240 Employees	20 referrals/results	2 hours	40
—Notification to Employee of Need: Otological Examination.	240 Employees	20 notifications	5 minutes	2
—New Audiometric Interpretation	240 Employees	20 notifications	5 minutes	2
227.111—Audiometric Test Requirements	1,000 Mobile Vans	1,000 tests	45 minutes	750
227.117—Hearing Protection Attenuation—Evaluation.	460 Railroads	50 evaluations	30 minutes	25
—Re-Evaluations	460 Railroads	10 re-evaluations	30 minutes	5
227.119—Hearing Conservation Training Program—Development.	460 Railroads/AAR	461 programs	8 hours/2 hours/116 hours/1 hour.	956
—Employee Training	460 Railroads	26,000 tr. Empl	30 minutes	13,000
—Periodic Training	460 Railroads	7,000 tr. Empl	30 minutes	3,500
227.121—Recordkeeping—Authorization: Records.	460 Railroads	10 requests + 10 responses.	10 min. + 15 min	5
—Request for Copies of Reports	460 Railroads	150 requests + 150 responses.	21 min. + 45 min	166
—Records Transfer When Carrier Becomes Defunct.	460 Railroads	10 records	24 minutes	4

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
—Railroad Audiometric Test Records	460 Railroads	26,000 records	2 minutes	867
—Hearing Conservation Program (HCP) Records.	460 Railroads	54,000 records	45 seconds	675
—HCP Training Records of Employees	460 Railroads	26,000 records	30 seconds	217
—Records: Standard Threshold Shifts of Employees.	460 Railroads	280 records	7 minutes	33
229.121—Locomotive Cab Noise—Tests/Certifications.	3 Equipment Manufacturers.	700 tests/certific	40 min. + 5 min	111
—Equipment Maintenance: Excessive Noise Reports.	460 Railroads	3,000 reports + 3,000 records.	10 min. + 5 min	750
—Maintenance Records	460 Railroads	3,750 records	8 minutes	500
—Internal Auditable Monitoring Systems	570 Railroads	570 systems	36 min. + 8.25 hour	572
Appendix H—Static Test Protocols/Records	700 Locomotives	2 retests + 2 records	35 min. + 5 min	1

Total Responses: 230,939.

Estimated Total Annual Burden: 44,178 hours.

Status: Regular Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on September 19, 2008.

D.J. Stadtler,

Director, Office of Financial Management, Federal Railroad Administration.

[FR Doc. E8–22563 Filed 9–24–08; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2008–0129]

Reports, Forms, and Recordkeeping Requirements

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

ACTION: Request for public comment on an extension of a currently approved collection.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before November 24, 2008.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room W12–140, ground level, 1200 New Jersey Ave., SE., Washington, DC 20590 by any of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the 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.
- *Hand Delivery/Courier:* 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. *Telephone:* 1–800–647–5527.
- *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) or you may visit *http://DocketInfo.dot.gov*.

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

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Carlita Ballard, NHTSA, 1200 New Jersey Ave., SE., Room W43–439, NVS–131, Washington, DC 20590. Ms. Ballard's telephone number is (202) 366–0846. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i.) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii.) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii.) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv.) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic,

mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Insurer Reporting Requirement for 49 CFR Part 544.

OMB Control Number: 2127–0547.

Form Number: None.

Affected Public: Business or other for-profit.

Requested Expiration Date of Approval: Three years from approval date.

Abstract: This information collection supports the Department's strategic goal of Economic Growth and Trade. The Motor Vehicle Theft Law Enforcement Act of 1984, added Title VI to the Motor Vehicle and Information Cost Savings Act (recodified as Chapter 331 of Title 49, United States Code) which mandated this information collection. The 1984 Theft Act was amended by the Anti Car Theft Act (ACTA) of 1992 (Pub. L. 102–519). NHTSA is authorized under 49 U.S.C. 33112, to collect this information. This information collection supports the agency's economic growth and trade goal through rulemaking implementation developed to help reduce the cost of vehicle ownership by reducing the cost of comprehensive insurance coverage. 49 U.S.C. 33112 requires certain passenger motor vehicle insurance companies and rental/leasing companies to provide information to NHTSA on comprehensive insurance premiums, theft and recoveries and actions taken to address motor vehicle theft.

Estimated Annual Burden: Based on prior years' insurer compilation information, the agency estimates that the time to review and compile information for the reports will take approximately a total of 63,238 burden hours (60,004 man-hours for 28 insurance companies and 3,234 man-hours for 7 rental and leasing companies). Claim Adjusters incur separate burden hours from the number of insurers. There is one Claim Adjuster assigned to each insurer. There was a decrease in several rental and leasing companies that have merged into one entity or have been exempted from the reporting requirements since the last reporting period. The agency has re-estimated the burden hours to be 63,238 total annual hours requested in lieu of 64,610 as the current OMB inventory. This is a decrease of 1,376 hours. Most recent year insurer compilation information estimates reveal that it takes an average cost of $65.00 per hour for clerical and technical staff to prepare the annual reports. Therefore, the agency estimates the total cost associated with the burden hours is $4,110,470.

The burden hour for rental and leasing companies is significantly less than that for insurance companies because rental and leasing companies comply with fewer reporting requirements than the insurance companies. The reporting burden is based on insurers' salaries, clerical and technical expenses, and labor costs.

Number of Respondents: 35.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: September 19, 2008.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E8–22629 Filed 9–24–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Special Permits Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications Delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Delmer F. Billings, Director, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, (202) 366–4535.

Key to ''Reason for Delay''

1. Awaiting additional information from applicant.
2. Extensive public comment under review.
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.
4. Staff review delayed by other priority issues or volume of special permit applications.

Meaning of Application Number Suffixes

N—New application.
M—Modification request.
PM—Party to application with modification request.

Issued in Washington, DC, on September 17, 2008.

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

MODIFICATION TO SPECIAL PERMITS

Application No.	Applicant	Reason for delay	Estimated date of completion
14167–M	Trinityrail, Dallas, TX	4	09–30–2008
8723–M	Alaska Pacific Powder Company, Anchorage, AK	1	09–30–2008
10950–M	The Fertilizer Institute, Washington, DC	1	10–31–2008
13583–M	Structural Composites Industries, Pomona, CA	1	10–31–2008

NEW SPECIAL PERMIT APPLICATIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
14643–N	World Airways, Inc. Peachtree City, GA	3	11–30–2008
14661–N	FIBA Technologies, Inc., Millbury, MA	4	09–30–2008
14663–N	Department of Energy, Washington, DC	1	10–31–2008
14664–N	Century Arms, Inc., Fairfax. VT	4	09–30–2008
14668–N	Lincoln Composites, Lincoln, NE	1	02–28–2009

[FR Doc. E8–22306 Filed 9–24–08; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket ID PHMSA–2008–0255]

Pipeline Safety: Workshop on Anomaly Assessment and Repair

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of Workshop.

SUMMARY: Recent observations by PHMSA indicate possible inconsistencies in how natural gas transmission pipeline operators assess and repair anomalies, such as corrosion defects, and apply the results of calculations to their decision making for further action. Special permits granted by PHMSA over the past two years prescribe specific assessment and repair procedures for pipelines operating under a class location change and maximum allowable operating pressure special permit. Moreover, recent research indicating that existing methods of predicting the remaining strength of corroded pipe could provide non-conservative results (i.e., the pipe will fail at a pressure lower than that predicted) in some circumstances. Non-conservative results could be obtained even when the dimensions of pipeline anomalies are known with precision.

PHMSA is sponsoring a Workshop on Assessment and Repair of Anomalies in Pipelines to allow stakeholders of the pipeline safety community to learn about and discuss these research results, current evaluation practices, and methods to assure pipeline safety. The discussion of current evaluation practices and methods to assure pipeline safety should include: A review of safety factors used to evaluate anomalies when assessing in-line tool and excavation results, review of how outside forces and overpressure may effect anomaly stresses, how ILI tool accuracy is applied to anomaly evaluation, and how anomaly growth rates in assessments are considered.

DATES: The workshop will be held on October 22, 2008. Name badge pick-up and on-site registration will be available starting at 7:30 a.m. with the agenda taking place from 8 a.m. until approximately 5 p.m. Refer to the meeting Web site for updated agenda and times: *http://primis.phmsa.dot.gov/meetings/Mtg55.mtg.* Please note that the workshop will not be Webcast. However, presentations will be available on the meeting Web site within 30 days following the workshop.

ADDRESSES: The workshop will be held at the Gaylord National Resort and Convention Center, 201 Waterfront Street, National Harbor, MD 20745. Hotel reservations under the ''United States Department of Transportation #2'' room block for the night of October 21, 2008, can be made at 1–301–965–2000. A daily rate of $233 is available. The meeting room will be posted at the hotel on the days of the workshop.

FOR FURTHER INFORMATION CONTACT: Max Kieba at 202–493–0595, or by e-mail at *max.kieba@dot.gov.*

SUPPLEMENTARY INFORMATION:

Registration: Members of the public may attend this free workshop. To help assure that adequate space is provided, all attendees are encouraged to register for the workshop at *http://primis.phmsa.dot.gov/meetings/Mtg55.mtg.* Hotel reservations must be made by contacting the hotel directly.

Comments: Members of the public may also submit written comments, either before or after the workshop. Comments should reference Docket ID PHMSA–2008–0255. Comments 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. Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590.
- *Hand Delivery:* Dot Docket Management System, Room W12–140, on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the Docket ID at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.*

Note: Comments will be posted without changes or edits to *http://www.regulations.gov* including any personal information provided. Please see the Privacy Act heading in the Regulatory Analyses and Notices section of the **SUPPLEMENTARY INFORMATION** for additional information.

Privacy Act Statement: Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477).

Information on Services for Individuals with Disabilities: For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, please contact Max Kieba by October 15, 2008.

Issue Description: The current regulations contained in 49 CFR 192.485 and 192.713, allows latitude in methods used for assessing and remediating pipe with corrosion anomalies to restore the serviceability of pipe. PHMSA has found a wide variation in operators' interpretation of how to meet the requirements of pipeline safety regulations in assessing, evaluating, and remediating corrosion anomalies. PHMSA emphasizes that, while the workshop will involve issues related to Part 192, the technical discussions on research and methods are of relevance to hazardous liquid pipeline operators. For this reason, PHMSA also encourages hazardous liquid pipeline operators to attend the meeting.

Transmission pipelines often operate at high pressures. Pipeline design requirements assure that pipe has

sufficient strength to contain these high pressures and to provide an additional safety margin. Pipeline in-service can become degraded due to time independent and time dependent threats. Time dependent threats include corrosion and other defects which can grow over time and, if allowed to continue unchecked, may reduce the pipe wall thickness to the point of failure. Time independent threats include excavation damage, which are one-time events that may damage the pipeline's protective coating, or the pipe itself (e.g., dent, gouge, crack, or puncture). The defects caused by time dependent or independent threats can reduce the safety margin for retaining the pipeline operating pressure.

Pipeline operators predominantly use one of three accepted methods to calculate the remaining strength of pipelines containing metal loss anomalies: (1) B31G, (2) Modified B31G, and (3) RSTRENG. These methods consider the length and depth of anomalies (i.e., areas of metal loss) and produce estimates of the pressure at which the pipe will fail. Pipeline operators are required to use these estimates to (1) determine whether pipeline pressure must be reduced to provide an additional safety margin, and (2) determine the urgency with which anomalies must be investigated, evaluated, and repaired.

In practice, many anomalies are often identified by inspection of the pipeline using in-line inspection (ILI) tools. These tools provide estimates of the length and depth of anomalies that are used in calculating remaining pipeline strength. The dimensions estimated using ILI tools are subject to uncertainty because of variables that affect the accuracy in determining wall thickness and length.

Recent research sponsored by PHMSA and industry, evaluated the accuracy of the methods currently used to calculate the remaining strength of corroded pipelines. The evaluation used data from historical and recent bench tests in which pipe with known defects (some with real corrosion defects and some with intentionally machined defects) were pressurized to failure. The defect size and pipe characteristics were used to calculate a predicted failure pressure using each of the analytical methods being evaluated. The failure pressure predicted by each method was compared to the empirical failure pressure determined during the test to identify if the predicted failure pressure was conservative or non-conservative. This work involved using the analytical methods to calculate the remaining strength of pipe containing defects whose dimensions could be measured with a high degree of precision. In some cases, the pipe failed at pressures lower than those predicted (i.e., the predicted failure pressure was non-conservative). This occurred most often for deep anomalies (e.g., >60% wall loss) in high-strength pipe (e.g., grade API 5L X–52 and above). All of the accepted methods for calculating remaining pipe strength were found to produce non-conservative estimates of failure pressure in some instances.

The workshop will allow the review and discussion of appropriate repair criteria for evaluating anomalies to meet regulatory code requirements for the permanent field repair of imperfections and damages. The workshop is also intended to allow representatives of the pipeline industry, regulatory agencies, the public, and other stakeholders to discuss the implications of research results and the potential need for regulatory changes or modification of industry standards.

Preliminary Workshop Agenda

The workshop will include:

(1) Overview of recent research results,

(2) Perspective of industry and regulators on the implications of the research results, and

(3) Discussion of issues related to reliable application of methods for predicting failure pressure of pipe with metal loss defects, including:

a. Treatment of ILI tool accuracy,

b. Consideration of anomaly growth rates.

c. Appropriate repair criteria.

Refer to the meeting Web site for a more detailed agenda: *http://primis.phmsa.dot.gov/meetings/Mtg55.mtg*.

PHMSA publishes requirements for the assessment and repair of anomalies discovered by ILI tools or direct measurement in 49 CFR Part 192 for gas pipelines and Part 195 for hazardous liquids pipelines. PHMSA also publishes other anomaly assessment and repair requirements for pipelines under special permit for class location and alternative MAOP which vary from and are more stringent than the requirements contained in regulations. PHMSA plans to discuss assessment and repair requirements including the application of factors of safety, ILI tool tolerance, and corrosion growth rates. PHMSA will consider the discussion at the workshop and comments submitted to the docket in determining whether changes to regulatory requirements for anomaly assessment and repair are needed in light of the new research results and, if so, what those changes should be.

Issued in Washington, DC on September 19, 2008.

William H. Gute,

Deputy Associate Administrator for Pipeline Safety.

[FR Doc. E8–22602 Filed 9–24–08; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–1067 (Sub-No. 2X)]

General Railway Corporation d/b/a Iowa Northwestern Railroad—Abandonment Exemption—in Osceola and Dickinson Counties, IA

General Railway Corporation d/b/a Iowa Northwestern Railroad (IANW) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon an approximately 36.9-mile line of railroad extending between milepost 215.4, west of Mackenzie Junction, and milepost 252.3, west of Braaksma, in Dickinson and Osceola Counties, IA.[1] The line traverses United States Postal Service Zip Codes 51249, 51345, 51347, 51354, 51360 and 51363.

IANW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

[1] IANW's notice was filed on September 5, 2008. On September 18, 2008, IANW supplemented its filing by clarifying its certification requirement under 49 CFR 1152.50(b).

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 25, 2008, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 6, 2008. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 15, 2008, with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to IANW's representative: John F. Larkin, President, Iowa Northwestern Railroad, 4814 Douglas Street, Omaha, NE 68132.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

IANW has filed a combined environmental and historic report addressing the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 30, 2008. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), IANW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by IANW's filing of a notice of consummation by September 25, 2009, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: September 19, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–22513 Filed 9–24–08; 8:45 am]

BILLING CODE 4915–01–P

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] 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

Submission for OMB Review; Comment Request

September 18, 2008.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before October 27, 2008 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1779.

Type of Review: Extension.

Title: Notice 2002–27—IRA Required Minimum Distribution Reporting.

Forms: n/a.

Description: This notice provides guidance with respect to the reporting requirements, that is, data that custodians and trustees of IRAs must furnish IRA owners in those instances where there must be a minimum distribution from an individual retirement arrangement.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 1,170,000 hours.

OMB Number: 1545–1772.

Type of Review: Extension.

Title: User Fee for Employee Plan Determination Letter Request.

Form: 8717.

Description: The Omnibus Reconciliation Act of 1990 requires payment of a ''user fee'' with each application for a determination letter. Because of this requirement, the Form 8717 was created to provide filers the means to make payment and indicate the type of request.

Respondents: Businesses and other for-profit institutions, farms.

Estimated Total Burden Hours: 438,000 hours.

OMB Number: 1545–0177.

Type of Review: Extension.

Title: Casualties and Thefts.

Form: 4684.

Description: Form 4684 is used by taxpayers to compute their gain or loss from casualties or thefts, and to summarize such gains and losses. The data is used to verify that the correct gain or loss has been computed.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 466,932 hours.

OMB Number: 1545–1385.

Type of Review: Extension.

Title: GL–238–88 (Final) Preparer Penalties—Manual Signature Requirement.

Description: The reporting requirements affect returns preparers of fiduciary returns. They will be required to submit a list of the names and identifying numbers of all fiduciary returns which are being filed with a facsimile signature of the returns preparer.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 25,825 hours.

OMB Number: 1545–1930.

Type of Review: Extension.

Title: REG–159243–03 (Final) Residence and Source Rules Involving U.S. Possessions and Other Conforming Changes.

Description: The regulations provide rules for determining whether an individual is a bona fide resident of a U.S. possession and whether income is derived from sources in a possession or effectively connected with the conduct of a trade or business in a possession.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 300,000 hours.

OMB Number: 1545–1031.

Type of Review: Revision.

Title: Internet Computation Under the Look-Back Method for Completed Long-Term Contracts.

Form: 8697.

Description: Taxpayers required to account for all or part of any long-term contract entered into after February 28, 1986, under the percentage of

completion method must use Form 8697 to compute and report interest due or to be refunded under IRC section 460(b)(3). The IRS uses Form 8697 to determine if the interest has been figured correctly. Taxpayers may compute interest using the actual method (Part I) or the Simplified Marginal Impact Method (Part II).

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 40,557 hours.

OMB Number: 1545–0014.

Type of Review: Revision.

Title: Application for Registration For Certain Excise Tax Activities.

Form: 637.

Description: Form 637 is used to apply for excise tax registration. The registration applies to a person required to be registered under IRC section 4101 for purposes of the federal excise tax on taxable fuel imposed by IRC 4041 and 4081; and to certain manufacturers or sellers and purchasers that must register under IRC 4222 to be exempt from the excise tax on taxable articles. The data is used to determine if the applicant qualifies for exemption. Taxable fuel producers are required by IRC 4101 to register with the Service before incurring any tax liability.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 27,020 hours.

OMB Number: 1545–1795.

Type of Review: Extension.

Title: REG–165868–01 (Final) Ten or More Employer Plan Compliance Information.

Description: Allows the Internal Revenue Service and participating employers to verify that a ten-or-more employer welfare benefit plan complies with the requirements of section 419A(f)(6) of the Internal Revenue Code. Respondents are administrators of ten-or more employer plans.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 2,500 hours.

OMB Number: 1545–1648.

Type of Review: Extension.

Title: Low-Income Taxpayer Clinics—2005 Grant Application Package and Guidelines.

Form: 3319.

Description: Publication 3319 outlines requirements of the IRS Low-Income Taxpayer Clinics (LITC) program and provides instructions on how to apply for a LITC grant award.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 6,000 hours.

OMB Number: 1545–0235.

Type of Review: Extension.

Title: Monthly Tax Return for Wagers.

Form: 730.

Description: Form 730 is used to identify taxable wagers and collect the tax monthly. The information is used to determine if persons accepting wagers are correctly reporting the amount of wagers and paying the required tax.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 384,291 hours.

OMB Number: 1545–0110.

Type of Review: Extension.

Title: Dividends and Distributions.

Form: 1099–DIV.

Description: The form is used by the Service to insure that dividends are properly reported as required by Code section 6042 and that liquidation distributions are correctly reported as required by Code section 6043, and to determine whether payees are correctly reporting their income.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 34,695,867 hours.

OMB Number: 1545–1940.

Type of Review: Extension.

Title: RP–2005–26 Revenue Procedure Regarding Extended Period of Limitations for Listed Transaction Situations.

Description: This revenue procedure provides procedures that taxpayers and material advisors may use to disclose a listed transaction that the taxpayer previously failed to disclose.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 430 hours.

OMB Number: 1545–1786.

Type of Review: Extension.

Title: Rev. Procs. 2002–39, 2006–45 (Previous 2002–37), and 2006–46 (Previous 2002–38) Changes in Periods of Accounting.

Description: The collection of information in these three (3) revenue procedures is necessary for the Commissioner to determine whether a taxpayer may properly obtain approval to adopt, change, or retain an annual accounting period.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 700 hours.

OMB Number: 1545–1939.

Type of Review: Extension.

Title: Notice 2005–32 Notification requirement for transfer of partnership interest in Electing Investment partnership (EIP).

Description: If a partnership interest in an EIP is transferred in a sale or exchange or upon the death of a partner, the transferor must notify the transferee and the EIP in writing.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 552,100 hours.

OMB Number: 1545–1784.

Type of Review: Extension.

Title: Rev. Proc. 2002–32 Waiver of 60-month Bar on Reconsolidation after Disaffiliation; Rev. Proc. 2006–21—Modifications to Rev. Proc. 2002–32.

Description: Pursuant to Sec. 1504(a)(3)(B) of the Internal Revenue Code, this procedure grants certain taxpayers a waiver of the general rule of Sec. 1504(a)(3)(A) barring a corporation from filing a consolidated return with a group of which it had ceased to be a member for 60 months following the year of disaffiliation.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 100 hours.

OMB Number: 1545–0049.

Type of Review: Extension.

Title: Form 990–BL, Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons, and Form 6069, Return of Excise Tax on Excess Contributions to Black Lung Disease

Forms: 6069, 990–BL and Schedule A.

Description: IRS uses Form 990–BL to monitor activities of black lung benefit trusts, and to collect excise taxes on these trusts and certain related persons if they engage in proscribed activities. The tax is figured on Schedule A and attached to Form 990–BL. Form 6069 is used by coal mine operators to figure the maximum deduction to a black lung benefit trust. If excess contributions are made, IRS uses the form to figure and collect the tax on excess contributions.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 563 hours.

OMB Number: 1545–1126.

Type of Review: Extension.

Title: INTL–121–90, INTL–292–90, and INTL–361–89, (Final) Treaty-Based Return Positions.

Description: Regulation section 301.6114–1 sets forth the reporting requirement under Sec. 6114. Persons or entities subject to this reporting requirement must make the required disclosure on a statement attached to their return, in the manner set forth, or be subject to a penalty. Regulation section 301.7701(b)–7(a)(4)(iv)(C) sets forth the reporting requirement for dual

resident S corporation shareholders who claim treaty benefits as nonresidents of the United States.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 6,015 hours.

OMB Number: 1545–0795.

Type of Review: Extension.

Title: Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual.

Form: 8233.

Description: Compensation paid to a nonresident alien (NRA) individual for independent personal services (self-employment) is generally subject to 30% withholding or graduated rates. However, compensation may be exempt from withholding because of a U.S. tax treaty or personal exemption amount. Form 8233 is used to request exemption from withholding.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 1,320,000 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E8–22482 Filed 9–24–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Annual Thrift Satisfaction Survey

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection request (ICR) described below has been submitted to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 27, 2008. A copy of this ICR, with applicable supporting documentation, can be obtained from RegInfo.gov at *http://www.reginfo.gov/public/do/PRAMain.*

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Office of Information and Regulatory Affairs, *Attention:* Desk Officer for OTS, U.S. Office of Management and Budget, 725—17th Street, NW., Room 10235, Washington, DC 20503, or by fax to (202) 395–6974; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov*. OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov*. In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: For further information or to obtain a copy of the submission to OMB, please contact Ira L. Mills at, *ira.mills@ots.treas.gov* (202) 906–6531, or facsimile number (202) 906–6518, Regulations and Litigation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Annual Thrift Satisfaction Survey.

OMB Number: 1550–0087.

Form Number: N/A.

Description: The survey is needed to help OTS evaluate the effectiveness of the services it provides to thrifts.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 200.

Estimated Number of Responses: 200.

Estimated Burden Hours per Response: 15 minutes.

Estimated Frequency of Response: Annually.

Estimated Total Burden: 50 hours.

Clearance Officer: Ira L. Mills, (202) 906–6531, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Dated: September 19, 2008.

Deborah Dakin,

Senior Deputy Chief Counsel, Regulations and Legislation Division.

[FR Doc. E8–22484 Filed 9–24–08; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Electronic Operations

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection request (ICR) described below has been submitted to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before October 27, 2008. A copy of this ICR, with applicable supporting documentation, can be obtained from RegInfo.gov at *http://www.reginfo.gov/public/do/PRAMain.*

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Office of Information and Regulatory Affairs, Attention: Desk Officer for OTS, U.S. Office of Management and Budget, 725–17th Street, NW., Room 10235, Washington, DC 20503, or by fax to (202) 395–6974; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: For further information or to obtain a copy of the submission to OMB, please contact Ira L. Mills at, *ira.mills@ots.treas.gov* (202) 906–6531, or facsimile number (202) 906–6518, Regulations and Litigation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Electronic Operations.

OMB Number: 1550–0095.

Form Number: N/A.

Description: With the increased focus of institutions on the use of electronic channels to perform their daily operations and offer new products and services, the Office of Thrift Supervision (''OTS'') plays an important role in evaluating an institution's risks in the use of information technology.

Federal savings associations may use, or participate with others to use, electronic means or facilities to perform any function, or provide any product or service, as part of an authorized activity. 12 CFR 555. Electronic means or facilities include, but are not limited to, automated teller machines, automated loan machines, personal computers, the Internet, the World Wide Web, telephones, and other similar electronic devices. The regulation also requires each savings association to notify OTS at least 30 days before establishing a transactional Web site. Savings associations that present supervisory or compliance concerns may be subject to additional procedural requirements.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 80.

Estimated Number of Responses: 80.

Estimated Burden Hours per Response: 2 hours.

Estimated Frequency of Response: Other; transactionally.

Estimated Total Burden: 160 hours.

Clearance Officer: Ira L. Mills, (202) 906–6531, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Dated: September 19, 2008.

Deborah Dakin,

Senior Deputy Chief Counsel, Regulations and Legislation Division.

[FR Doc. E8–22485 Filed 9–24–08; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-New (VAARS 819.7108 and 819.7113)]

Proposed Information Collection (Mentor-Protégé Program Application and Reports) Activity; Comment Request

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Management (OM), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to establish a mentor-protégé program agreement between a large business, veteran-owned small business and service-disabled veteran-owned small business and to report the success of the program.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 24, 2008.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or to Arita Tillman, Acquisition Policy Division (049P1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or e-mail: *arita.tillman@va.gov*. Please refer to ''OMB Control No. 2900-New (VAARS 819.7108 and 819.7113)'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Arita Tillman at (202) 461–6859, FAX 202–273–6229.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, (OM) invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of (OM)'s functions, including whether the information will have practical utility; (2) the accuracy of (OM)'s estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Department of Veterans Affairs Acquisition Regulation (VAAR) Clause 819.7108, Application Process.

b. Department of Veterans Affairs Acquisition Regulation (VAAR) Clause 819.7113, Reports.

OMB Control Number: 2900–New (VAARS 819.7108 and 819.7113).

Type of Review: New collection.

Abstract: The information collected under Department of Veterans Acquisition Regulation (VAAR) Clauses 819.7108 and 819.7113 will be used to institute a mentor-protégé program whereby large businesses agree to provide mutually developmental support to veteran-owned small business and service-disabled veteran-owned small business. VA will use the data to measure the protégé progress against the developmental plan contained in the approved agreement and to report the specific actions taken by the mentor to increase the participation of the protégé as a prime or subcontractor to VA.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden:

a. VAAR Clause 819.7108, Application Process—50 hours.

b. VAAR Clause 819.7113, Reports—150 hours.

Estimated Average Burden Per Respondent:

a. VAAR Clause 819.7108, Application Process—60 minutes.

b. VAAR Clause 819.7113, Reports—60 minutes.

Frequency of Response: Quarterly.

Estimated Number of Respondents:

a. VAAR Clause 819.7108, Application Process—50.

b. VAAR Clause 819.7113, Reports—50.

Total number of Responses: 200.

Dated: September 17, 2008

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–22517 Filed 9–24–08; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
September 25, 2008

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Late-Season Migratory Bird Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[FWS–R9–MB–2008–0032; 91200–1231–9BPP–L2]

RIN 1018–AV62

Migratory Bird Hunting; Final Frameworks for Late-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service or we) prescribes final late-season frameworks from which States may select season dates, limits, and other options for the 2008–09 migratory bird hunting seasons. These late seasons include most waterfowl seasons, the earliest of which commences on September 27, 2008. The effect of this final rule is to facilitate the States' selection of hunting seasons and to further the annual establishment of the late-season migratory bird hunting regulations.

DATES: This rule takes effect on September 25, 2008.

ADDRESSES: States should send their season selections to: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240. You may inspect comments during normal business hours at our office in room 4107, 4501 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Robert Blohm, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2008

On May 28, 2008, we published in the **Federal Register** (73 FR 30712) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2008–09 regulatory cycle relating to open public meetings and **Federal Register** notifications were also identified in the May 28 proposed rule. Further, we explained that all sections of subsequent documents outlining hunting frameworks and guidelines were organized under numbered headings.

On June 18, 2008, we published in the **Federal Register** (73 FR 34692) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations. The June 18 supplement also provided detailed information on the 2008–09 regulatory schedule and announced the SRC and Flyway Council meetings.

On June 25 and 26, we held open meetings with the Flyway Council Consultants, at which the participants reviewed information on the current status of migratory shore and upland game birds and developed recommendations for the 2008–09 regulations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2008–09 regular waterfowl seasons. On July 24, 2008, we published in the **Federal Register** (73 FR 43290) a third document specifically dealing with the proposed frameworks for early-season regulations. On August 27, 2008, we published in the **Federal Register** (73 FR 50678) a rulemaking establishing final frameworks for early-season migratory bird hunting regulations for the 2008–09 season. Subsequently, on August 29, 2008, we published a final rule in the **Federal Register** (73 FR 51088) amending subpart K of title 50 CFR part 20 to set hunting seasons, hours, areas, and limits for early seasons.

On July 30–31, 2008, we held open meetings with the Flyway Council Consultants, at which the participants reviewed the status of waterfowl and developed recommendations for the 2008–09 regulations for these species. On August 29, 2008, we published in the **Federal Register** (73 FR 51124) the proposed frameworks for the 2008–09 late-season migratory bird hunting regulations. This document establishes final frameworks for late-season migratory bird hunting regulations for the 2008–09 season. We will publish State selections in the **Federal Register** as amendments to §§ 20.101 through 20.107, and 20.109 of title 50 CFR part 20.

Population Status and Harvest

A brief summary of information on the status and harvest of waterfowl excerpted from various reports was included in the August 29 supplemental proposed rule. For more detailed information on methodologies and results, complete copies of the various reports are available at the address indicated under **ADDRESSES** or from our Web site at *http://www.fws.gov/migratorybirds/reports/reports.html*.

Review of Public Comments and Flyway Council Recommendations

The preliminary proposed rulemaking, which appeared in the May 28, 2008, **Federal Register**, opened the public comment period for migratory game bird hunting regulations. The supplemental proposed rule, which appeared in the June 18, 2008, **Federal Register**, discussed the regulatory alternatives for the 2008–09 duck hunting season. Late-season comments are summarized below and numbered in the order used in the May 28 and June 18 **Federal Register** documents. We have included only the numbered items pertaining to late-season issues for which we received written comments. Consequently, the issues do not follow in direct numerical or alphabetical order.

We received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below.

General

Written Comments: An individual commenter protested the entire migratory bird hunting regulations process, the killing of all migratory birds, and the Flyway Council process.

Service Response: Our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Having taken into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, we believe that the hunting seasons provided herein are compatible with the current status of migratory bird populations and long-term population goals. Additionally, we are obligated to, and do, give serious consideration to all

information received as public comment. While there are problems inherent with any type of representative management of public-trust resources, we believe that the Flyway-Council system of migratory bird management has been a longstanding example of State-Federal cooperative management since its establishment in 1952. However, as always, we continue to seek new ways to streamline and improve the process.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) Harvest Strategy Considerations, (B) Regulatory Alternatives, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management. The categories correspond to previously published issues/discussion, and only those containing substantial recommendations are discussed below.

A. Harvest Strategy Considerations

Council Recommendations: The Atlantic and Pacific Flyway Councils and the Upper- and Lower-Regulations Committees of the Mississippi Flyway Council recommended the adoption of the ''liberal'' regulatory alternative.

The Mississippi Flyway Council opposed the implementation of the western mallard Adaptive Harvest Management (AHM) protocol and recommended the midcontinent mallard AHM protocol should be used for all three western Flyways.

The Central Flyway Council also recommended the ''liberal'' alternative. However, as part of their Hunter's Choice experiment, they recommended continuation of the following bag limits:

In Colorado, Montana, Nebraska, New Mexico, and Oklahoma, the daily bag limit would be six ducks, with species and sex restrictions as follows: five mallards (no more than two of which may be females), two redheads, two scaup, two wood ducks, one pintail, one mottled duck, and one canvasback. For pintails and canvasbacks, the season length would be 39 days, which may be split according to applicable zones/split duck hunting configurations approved for each State.

In Kansas, North Dakota, South Dakota, Texas, and Wyoming, the daily bag limit would be five ducks, with species and sex restrictions as follows: two scaup, two redheads, and two wood ducks, and only one from the following group—hen mallards, mottled ducks, pintails, canvasbacks.

Written Comments: The Wisconsin Conservation Congress and the Wisconsin Waterfowl Association opposed the removal of the Alaskan mallards from the mid-continent mallard stock.

Service Response: As we stated in the August 29 proposed rule, we are continuing development of an AHM protocol that would allow hunting regulations to vary among Flyways in a manner that recognizes each Flyway's unique breeding-ground derivation of mallards. In the July 24 **Federal Register**, we described and adopted a protocol for regulatory decision-making for the newly defined stock of western mallards. For the 2008 hunting season, we believe that the prescribed regulatory choice for the Pacific Flyway should be based on the status of this western mallard breeding stock, while the regulatory choice for the Mississippi and Central Flyways should depend on the status of the recently redefined mid-continent mallard stock. In defining the western breeding stock, based on available data, mallards breeding in Alaska were disassociated with the mid-continent mallard stock and reassigned to the western stock. We also recommend that the regulatory choice for the Atlantic Flyway continue to depend on the status of eastern mallards.

For the 2008 hunting season, we considered the same regulatory alternatives as those used last year. The nature of the restrictive, moderate, and liberal alternatives has remained essentially unchanged since 1997, except that extended framework dates have been offered in the moderate and liberal regulatory alternatives since 2002. Also, in 2003, we agreed to place a constraint on closed seasons in the western three Flyways whenever the midcontinent mallard breeding-population size (as defined prior to 2008; traditional survey area plus Minnesota, Michigan, and Wisconsin) was ≥5.5 million. As we described in the July 24 **Federal Register**, redefinition of the midcontinent mallard stock through the removal of Alaska necessitated that both the population constraint (North American Waterfowl Management Plan goal plus Minnesota, Michigan, and Wisconsin) and the closed season constraint in the midcontinent mallard objective function be rescaled to 8.5 million and 4.75 million, respectively, in order to appropriately reflect the change in stock definition and to achieve performance of the mid-continent mallard strategy that is comparable to performance prior to the stock redefinition.

Optimal AHM strategies for the 2008 hunting season were calculated using: (1) Harvest-management objectives specific to each mallard stock; (2) the 2008 regulatory alternatives; and (3) current population models and associated weights for midcontinent, western, and eastern mallards. Based on this year's survey results of 7.87 million midcontinent mallards (traditional survey area minus Alaska plus Minnesota, Wisconsin, and Michigan), 3.06 million ponds in Prairie Canada, 913.8 thousand western mallards (381.1 and 532.4 thousand, respectively, in California-Oregon and Alaska), and 815 thousand eastern mallards, the prescribed regulatory choice for all four Flyways is the liberal alternative.

Therefore, we concur with the recommendations of the Atlantic, Mississippi, Central, and Pacific Flyway Councils regarding selection of the ''liberal'' regulatory alternative and will adopt the ''liberal'' regulatory alternative, as described in the June 18 **Federal Register**.

Regarding Hunter's Choice, we support continuation of the Central Flyway Council's recommendation for a 3-year evaluation of the Central Flyway's Hunter's Choice duck bag limit. The Central Flyway's Hunter's Choice regulations are intended to limit harvest on pintails and canvasbacks in a manner similar to the season-within-a-season regulations. Hunter's Choice regulations should also reduce harvests of mottled ducks and hen mallards, while maintaining full hunting opportunity on abundant species such as drake mallards. For the species included in the aggregate bag limit, the harvest of one species is intended to ''buffer'' the harvest of the others, thus reducing the harvest of all species included in the one-bird category. The Central Flyway has accumulated 4 years of baseline information on harvests resulting from ''season-within-a-season'' regulations in the Central Flyway; the season length for pintails and canvasbacks in season-within-a-season States under the ''liberal'' alternative will be 39 days.

Five States (Kansas, North Dakota, South Dakota, Texas, and Wyoming) were randomly assigned to Hunter's Choice regulations and the remaining five States (Colorado, Montana, Nebraska, New Mexico, and Oklahoma) serve as controls (season-within-a-season regulations) as the evaluation proceeds. The overall duck daily bag limit is reduced from six to five for the Hunter's Choice States.

While we continue to support the Central Flyway's Hunter's Choice experiment, we reiterate that we believe implementation of this experiment should not preclude any future changes in hunting regulations that may be deemed necessary on an annual basis for any other duck species in the Central

Flyway, if such changes are deemed necessary.

Regarding the Mississippi Flyway Council's opposition to the western mallard AHM protocol, we have cooperated with the Pacific Flyway during the past several years to develop a protocol for managing the harvest of the western stock of mallards. As we discussed above, in July 2008, we formally adopted the western mallard protocol (73 FR 43290). This decision resulted in Alaska mallards being removed from the midcontinent mallard stock and placing them in the western mallard stock. This change resulted in a 70 percent increase (10 to 17 percent) in the frequency of closed seasons in the Central and Mississippi Flyways under the midcontinent mallard AHM protocol. As we also discussed above, to address this concern, we modified the closed season constraint for midcontinent mallards from 5.25 to 4.75 million mallards. This change is also consistent with changes in mallard breeding populations in Alaska over the past 2 decades, and therefore, expresses the closed season constraint in terms of more contemporary mallard breeding distributions.

We recognize the concerns expressed by the Mississippi Flyway Council with regard to implementation of the western mallard protocol. However, we believe that establishment of a western mallard protocol is justified, and we have made an appropriate adjustment to the midcontinent mallard protocol to reduce the impact of removing Alaska from that stock of birds. With regard to potential impacts of higher frequency of liberal seasons in the Pacific Flyway on midcontinent mallards, a preliminary joint optimization of western and midcontinent mallards was assessed. The preliminary analysis suggested that joint optimization does not result in a significant difference in the performance of either protocol. Therefore, we believe an independent harvest strategy for western mallards poses little risk to the midcontinent stock. With regard to the potential impacts of near-permanent liberal regulations in the Pacific Flyway on other species of waterfowl, it is presently unclear how such impacts would be assessed. However, we are committed to monitoring of these potential impacts and will discuss any findings with all of the Flyway Councils prior to implementing any appropriate regulatory changes to address such impacts.

B. Regulatory Alternatives

Council Recommendations: The Atlantic Flyway Council recommended that the Service propose a process and time line by June 2009 for review and modification of the regulatory alternatives for implementation by the 2011 season.

Service Response: We plan to address this issue within the context of the new Supplemental Environmental Impact Statement (SEIS) for the migratory bird hunting program (*see* NEPA Consideration for further discussion) and anticipate the issuance of the draft SEIS by the date desired by the Atlantic Flyway Council.

D. Special Seasons/Species Management

iii. Black Ducks

Council Recommendations: The Atlantic Flyway Council recommended that black duck harvest regulations remain unchanged for the 2008–09 season.

Service Response: In the July 24 **Federal Register** we described the black duck interim harvest strategy developed by U.S. and Canadian waterfowl managers that will be employed by both countries to make regulatory decisions over the next three seasons (2008–09 to 2010–11), allowing time for the development of a formal strategy based on the principles of AHM. The interim harvest strategy is prescriptive, in that it calls for no substantive changes in hunting regulations unless the black duck breeding population, averaged over the most recent 3 years, exceeds or falls below the long-term average breeding population by 15 percent or more. The strategy is designed to share the black duck harvest equally between the two countries; however, recognizing incomplete control of harvest through regulations, it will allow realized harvest in either country to vary between 40 and 60 percent.

The 2008 composite estimate (based on hierarchical modeling and both Service and Canadian Wildlife Service survey data) for the Eastern Survey Area is 683,400. The 1998–2007 mean estimate is 713,800 and the most recent 3-year running mean estimate is 721,6000. Based on these estimates, we agree with the Atlantic Flyway Council that no restriction or liberalization of harvest is warranted.

iv. Canvasbacks

Council Recommendations: The Atlantic Flyway Council recommended a full season for canvasbacks consisting of a 1-bird daily bag limit and a 60-day season in the Atlantic Flyway.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council reiterated their recommended alternative canvasback harvest management strategy that uses threshold levels based on breeding population size in order to determine bag limits (detailed in the June 18 **Federal Register**). Using their strategy would result in a 1-bird daily bag limit and a 60-day season in the Mississippi Flyway.

The Central Flyway Council, as part of their Hunter's Choice experiment, recommended a full season (74 days) for canvasbacks with a 1-bird daily bag limit in Kansas, North Dakota, South Dakota, Texas, and Wyoming and a 39-day season with a 1-bird daily bag limit in Colorado, Montana, Nebraska, New Mexico, and Oklahoma.

The Pacific Flyway Council recommended a closed season for canvasbacks.

Written Comments: The Minnesota Department of Natural Resources (Minnesota) and the Wisconsin Department of Natural Resources (Wisconsin) expressed concern over our proposal to close the canvasback season. Minnesota believed that basing this decision solely on the results of the current model was inappropriate. They urged us to consider the Mississippi Flyway Council's recommendation. Wisconsin also supported the Mississippi Flyway Council's recommendation and suggested that our 2008 breeding population estimate was likely to be low.

The Wisconsin Waterfowl Association stated that we had arbitrarily closed the canvasback season and that our survey figures were unacceptable and unbelievable. Similarly, the Wisconsin Wildlife Federation and the Wisconsin Conservation Congress also expressed frustration with the proposed canvasback closure and supported the Mississippi Flyway Council's recommendation for an open season using threshold levels based on breeding population size in order to determine bag limits.

One individual expressed skepticism in the accuracy of the canvasback harvest strategy and population estimate.

Service Response: Since 1994, we have followed a canvasback harvest strategy that if canvasback population status and production are sufficient to permit a harvest of one canvasback per day nationwide for the entire length of the regular duck season, while still attaining a projected spring population objective of 500,000 birds, the season on canvasbacks should be opened. A partial season would be permitted if the estimated allowable harvest was within the projected harvest for a shortened season. If neither of these conditions

can be met, the harvest strategy calls for a closed season on canvasbacks nationwide. In the July 24 **Federal Register** we announced our decision to modify the Canvasback Harvest Strategy to incorporate the option for a 2-bird daily bag limit for canvasbacks when the predicted breeding population the subsequent year exceeds 725,000 birds.

This year's spring survey resulted in an estimate of 489,000 canvasbacks. This was 44 percent below the 2007 estimate of 865,000 canvasbacks and 14 percent below the 1955–2007 average. The estimate of ponds in Prairie Canada was 3.06 million, which was 39 percent below last year and 11 percent below the long-term average. According to the Canvasback Harvest Strategy, the allowable harvest in the conterminous United States is 24,700 birds, which is less than the expected harvest in the United States for all four flyways under their respective restrictive season lengths (61,758 birds). Thus, the Canvasback Harvest Strategy stipulates a canvasback season closure for the upcoming season.

Last year, the estimate of canvasback abundance was a record-high of 865,000 birds. In response to Flyway requests for additional harvest opportunities due to that estimate, we increased the daily bag limit to 2 birds per day. As expected, the harvest of canvasbacks increased last year, but not to the extent that could explain the large decrease in the estimate of canvasback abundance this spring. We have conducted a comprehensive review of canvasback survey information, with a particular focus on the change in estimates between 2007 and 2008. Investigations into the estimation procedures for canvasbacks revealed that numbers of canvasbacks observed during the May survey increased across many survey areas last year, but counts were consistently lower in those same areas this spring. We found no anomalies in the data, leading us to conclude with confidence that the estimate this year is as reliable as previous estimates. Annual canvasback estimates typically have higher variances than for most other species counted during May, and large changes from year-to-year have happened historically. It is possible that the discrepancy between this year's estimate and last year's record-high estimate are purely the result of sampling variation, but other factors may have contributed.

However, we support the completion of the Hunter's Choice experiment in the Central Flyway. For the last 2 years, the average harvest of canvasbacks in the U.S. portion of the Central Flyway has been about 14,800 birds. This, together with the average expected harvest in Alaska (350 birds), is below the allowable U.S. harvest resulting from the strategy this year. Thus, we will allow the States in the Central Flyway an open season on canvasbacks this year according to the Hunter's Choice experimental design, but the seasons on canvasbacks would be closed in the Atlantic, Mississippi, and Pacific Flyways.

v. Pintails

Council Recommendations: The Atlantic and Pacific Flyway Councils and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended a full season for pintails consisting of a 1-bird daily bag limit and a 60-day season in the Atlantic and Mississippi Flyways, and a 107-day season in the Pacific Flyway.

The Central Flyway Council, as part of their Hunter's Choice experiment, recommended a full season (74 days) for pintails with a 1-bird daily bag limit in Kansas, North Dakota, South Dakota, Texas, and Wyoming and a 39-day season with a 1-bird daily bag limit in Colorado, Montana, Nebraska, New Mexico, and Oklahoma.

Service Response: Based on the current strategy, along with an observed spring breeding population of 2.61 million, an overflight-bias-corrected breeding population of 4.24 million and a projected fall flight of 4.47 million pintails, the Pintail Harvest Strategy prescribes a full season and a 1-bird bag in all Flyways. Under the ''liberal'' season length, this regulation is expected to result in a harvest of 569,000 pintails and an observed breeding population estimate of 3.53 million in 2009, not considering any potential effect from continuation of the Hunter's Choice evaluation in the Central Flyway.

Furthermore, we agree with the Central Flyway Council's recommendation to adopt a 39-day ''season-within-a-season'' for pintails in Colorado, Montana, Nebraska, New Mexico, and Oklahoma. We understand that this departure from the pintail strategy is a necessary part of the experimental ''Hunter's Choice'' season.

vi. Scaup

Council Recommendations: The Atlantic Flyway Council recommended that the following regulatory packages for scaup be allowed for the Atlantic Flyway for the next 3 years and that we use their harvest prediction methodology to predict scaup harvests in the Atlantic Flyway:

(1) Under the restrictive harvest policy, a 40-day season with a 1-bird daily bag and a 20-day season with a 2-bird daily bag. The 20 days with the 2 bird daily bag shall be 20 consecutive hunting days;

(2) Under the moderate harvest policy, a 60-day season with a 2-bird daily bag; and

(3) Under the liberal harvest policy, a 60-day season with a 4-bird daily bag.

For 2008–09, the Council recommended implementation of the restrictive season package, based on results of the scaup harvest model.

The Upper- and Lower Regulations Committees of the Mississippi Flyway Council recommended a 60-day season with a 2-bird daily bag limit for the 2008–09 season. They further recommended a restrictive and moderate regulatory package of 60 days with a 2-bird daily bag limit and a liberal regulatory package of 60 days with a 4-bird daily bag limit.

The Central Flyway Council recommended the continuation of the Hunter's Choice bag limit for the 2008–09 season. After completion of the Hunter's Choice experiment, the Central Flyway Council recommends the following potential scaup regulatory alternatives (season lengths and daily bag limits) for Central Flyway States:

(1) Restrictive Policy—74 days with a 1-bird daily bag limit;

(2) Moderate Policy—74 days with a 2-bird daily bag limit; and

(3) Liberal Policy—74 days with a 6-bird daily bag limit.

The Pacific Flyway Council recommended the adoption of the following scaup regulation packages for the Pacific Flyway for the next 3 years:

(1) *Restrictive season package:* 86 days, 2 bag limit.

(2) *Moderate season package:* 86 days, 3 bag limit.

(3) *Liberal season package:* 107 days, 7 bag limit.

In addition, the Pacific Flyway Council requested that split and zone configurations be available to individual States for scaup seasons, similar to the split and zone options we previously provided for pintail seasons. For 2008–09, the Council recommended implementation of the restrictive season package, based on results of the scaup harvest model.

Written Comments: The Mississippi Flyway Council requested consideration of an alternative restrictive regulatory option for the 2008–09 season. The Council proposed a 45-day season with a 2-bird daily bag and a 15-day season with a 1-bird daily bag. Under their regulatory option, the Council estimates that the harvest would be 84,000 scaup,

a level similar to the Service's target harvest level of 83,000 scaup for the Mississippi Flyway.

The Minnesota Department of Natural Resources (Minnesota) and the Wisconsin Department of Natural Resources (Wisconsin) both expressed concern over implementation of the proposed scaup harvest strategy and requested the Service reconsider its proposal. Minnesota recognized the declines in the scaup population but believed that reduction in harvest are not likely to lead to future breeding population increases. They further question the use of the scaup harvest strategy and support the Mississippi Flyway Council's recommendation. Wisconsin also supported efforts to reverse the long-term decline in scaup populations but believed that harvest is not the driving factor. They believe the Service's proposal is unreasonably restrictive.

The Wisconsin Waterfowl Association expressed support for the Mississippi Flyway Council's recommendation of a 45-day season with a 2-bird daily bag and a 15-day season with a 1-bird daily bag. The Wisconsin Conservation Congress supported a 60-day season with a 2-bird daily bag limit.

Delta Waterfowl Foundation recommended delaying implementation of the scaup harvest strategy until the Service could fully consider the recommendations of the scaup harvest strategy review panel (see July 24 **Federal Register**). They remain deeply opposed to both the process in and the implementation of the scaup harvest strategy.

The Oneida Lake Association opposed proposals for scaup harvest reductions and urged the Service to develop an improved harvest model supported by all stakeholders.

Twelve individuals expressed displeasure with the proposed implementation of the scaup harvest strategy. They raised various concerns related to the potential impacts of the strategy on diving duck hunters and the validity of the scaup harvest model. Most did not believe that harvest reductions were warranted this season. Several other individuals expressed support for our proposal.

Service Response: As we have stated over the last several years, the continental scaup (greater *Aythya marila* and lesser *Aythya affinis* combined) population has experienced a long-term decline over the past 20 years. Over the past several years in particular, we have continued to express our growing concern about the status of scaup (see the May 28 **Federal Register** for a review of the actions we have taken over the last few years to synthesize data relevant to scaup harvest management and frame a scientifically-sound scaup harvest strategy or for a complete list of reports see *http://www.fws.gov/migratorybirds/reports/reports.html*).

In the July 24 **Federal Register**, we adopted a scaup harvest strategy that resulted from 5 years of development and review in cooperation with the Flyway Councils. The 2008 scaup breeding population estimate was 3.74 million. Total estimated scaup harvest in 2007–08 was 295,000. Employing these estimates as the input to the scaup harvest strategy, the optimal harvest for the 2008–09 hunting season is 200,000 (including the 40,000 scaup harvest expected in Canada and Alaska). The available harvest results in a recommendation for a restrictive package in all four Flyways (except Alaska).

We appreciate the time and attention that the Flyways have given this issue. We further support the recommendations received from the Atlantic, Central and Pacific Flyways for their restrictive, moderate and liberal packages for scaup. We also support the packages recommended by the Mississippi Flyway for their moderate and liberal packages. However, the restrictive package originally recommended by the Mississippi Flyway (*see Council Recommendations* above) is not projected to be sufficient to achieve the required harvest reductions. In further consultation with the Mississippi Flyway Consultants at the July SRC meeting, we accepted the same season structure recommended by the Atlantic Flyway for restrictive seasons in the Mississippi Flyway that is expected to result in a harvest that is within the allowable allocation for the Mississippi Flyway (as a portion of the 200,000 indicated above).

In addition, we have adopted the alternative harvest prediction models suggested by the Atlantic, Central, and Pacific Flyway Councils (see July 24 **Federal Register** for additional discussion). We also support the proposal by the Pacific Flyway to afford States the opportunity to use their existing zone/split rules for their respective States when choosing scaup season frameworks.

Regarding the new recommendation from the Mississippi Flyway Council in response to our August 29 proposed rule (see *Written Comments* above), as we stated above, we continue to support the recommendations for scaup season structures of the Atlantic, Central and Pacific Flyway Councils, but do not support the new recommendation offered by the Mississippi Flyway Council. Alternatively, we proposed in the August 29 **Federal Register** a scaup season structure for the Mississippi Flyway that met the established guidelines. While we appreciate the additional comments from the States of Minnesota and Wisconsin, and the Mississippi Flyway Council offering an alternative season structure to both their original recommendation and the season structure we proposed, this new proposal does not conform to the guidelines. Thus, we do not support the recommendation. We reaffirm our support for employing the general scaup harvest strategy adopted this year and for continuing efforts to improve and refine this strategy. However, in consideration of the concerns expressed by the Mississippi Flyway Council and the two member States, we will continue to work with all four Flyway Councils to re-examine the guidelines for structuring scaup seasons during the next regulatory cycle. For the coming season, we will adopt scaup season structures as initially proposed.

vii. Mottled Ducks

Council Recommendations: The Upper- and Lower Regulations Committees of the Mississippi Flyway Council recommended continuation of a 60-day season and a 3-bird daily bag limit for mottled ducks for the 2008–09 waterfowl season. They further recommended that given adequate justification for a 30 percent reduction in harvest, and no further analyses of effects of harvest regulations on mottled duck harvests sometime in the future, the following:

(a) Season length of 45 days with a daily bag limit of 1 per day in years when AHM prescribes a liberal or moderate regulations package.

(b) Season length of 30 days with a daily bag limit of 2 per day in years when AHM prescribes a restrictive regulations package.

(c) Outside the mottled duck breeding range, mottled duck season length and bag limits would be the same as for hen mallards.

The Central Flyway Council recommended that no further harvest reductions were warranted at this time.

Service Response: We did not propose any changes to mottled duck regulations for the 2008–09 season. Because of our long-standing concern about the status of mottled ducks, we are encouraged by the progress made to date on improving population monitoring programs for this species in the Gulf Coast region. We look forward to working with the Flyways on continued development of such surveys. Further, we appreciate the

Mississippi Flyway Council's recommendations on potential regulatory packages that could serve to reduce harvest pressure on mottled ducks if deemed necessary at some future date. We will take under consideration the Council's recommendation regarding regulations in areas outside the mottled duck breeding range. We also recognize that the Central Flyway Council has taken voluntary restrictions in mottled duck regulations in the past and, together with reductions in harvest resulting from the Hunter's Choice experiment, have reduced harvest pressure on mottled ducks, primarily in Texas.

viii. Wood Ducks

Council Recommendations: The Atlantic and Central Flyway Councils and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the wood duck bag limit in the Atlantic, Mississippi, and Central Flyways be increased to 3 birds per day during the regular duck season for an experimental 3-year period beginning in 2008.

Service Response: We support the proposal to increase the daily bag limit for wood ducks from 2 to 3 birds in the Atlantic, Mississippi, and Central Flyways beginning in 2008. We do not, however, believe that this change warrants an experiment because the assessment work that justifies the bag limit increase has already been done. However, we recognize the importance of maintaining the current wood duck banding effort that is needed to assess the effects of the change. Further, we look forward to continuing involvement by the Flyways in developing a wood duck harvest strategy, including (1) determining specific harvest management objectives; (2) determining regulatory alternatives; (3) designation of and support for appropriate population monitoring programs; and (4) designation of the appropriate test criteria for making management decisions. We would like the Flyways to develop this strategy for implementation during the 2010–2011 hunting season.

viii. Youth Hunt

Council Recommendations: The Atlantic Flyway Council recommended that the Service allow States to select any 2 weekend days, holidays or other non-school days for their youth waterfowl hunting days.

Service Response: We do not support the Atlantic Flyway's proposal to allow the selection of any 2 weekend days, holidays, or other non-school days for their youth waterfowl hunting days. In 2000, we expanded the special youth waterfowl hunt to 2 consecutive days in order to reduce travel and scheduling conflicts for youth hunt participants—issues identified by the Flyways as problems with promoting participation under the original 1-day youth hunt guidelines (65 FR 51496). The following year, we further supported a change to 2 consecutive hunting days to address the inability of some States in the Atlantic Flyway to hunt on Sundays (66 FR 44010). As we stated in 2003 when presented with a similar proposal by the Atlantic Flyway, we believe the proposal is inconsistent with the original purpose put forth by the Flyway Councils in 2000 to facilitate travel and scheduling of youth hunt participants (68 FR 51658).

4. Canada Geese

B. Regular Seasons

Council Recommendations: The Atlantic Flyway Council forwarded a number of recommendations concerning Canada geese. First, the Council recommended that we modify the existing criteria for delineation of Atlantic Flyway Resident Population (AFRP) Canada goose hunting zones in the Atlantic Flyway by proposing that AFRP hunting zones may not contain more than 10 percent of all Atlantic Population (AP) band recoveries, or more than 10 percent of all North Atlantic Population (NAP) recoveries, within a State from 2002–2007.

Second, the Council recommended that we adopt the following criteria for evaluation of AFRP hunting zones in the Atlantic Flyway during 2008–2010:

(1) All areas holding an AFRP regular season must collectively account for no more than a 1 percent direct recovery rate for adults for any migrant goose population during the open AFRP regular seasons. Areas contributing disproportionately to the cumulative recovery rate will be identified and these areas may be eliminated to stay below the 1 percent threshold;

(2) AFRP hunting zones must not account for more than 10 percent of all AP band recoveries, or more than 10 percent of all NAP recoveries, in any State during the 3-year period 2008–2010;

(3) If a season is closed for any migrant population, AFRP hunting zones would remain open as long as they do not result in exceeding the cumulative 1 percent adult recovery rate threshold; and

(4) Band recovery data will be examined annually, and at 3-year intervals all available data will be examined to determine if zone modifications and/or changes to opening and closing framework dates are needed to ensure continued compliance with the above criteria.

As a result of the above delineation criteria modifications, the Council recommended modifications to existing AFRP hunting zones in New York, Pennsylvania, and Maryland beginning in 2008, and that we extend the opening and closing framework dates for Canada geese in AFRP harvest zones in Pennsylvania (from the fourth Saturday in October to March 10), Maryland and Virginia (from November 15 to March 10), and North Carolina (from October 1 to March 10). They also recommended allowing Connecticut and New York to establish new AFRP harvest zones with framework dates between 1 October and 15 February and bag limits of 5 geese per day.

With regard to frameworks in Southern James Bay Population (SJBP) harvest zones, the Council recommended allowing Pennsylvania a 70-day Canada goose hunting season, with a 3-bird daily bag limit, between the second Saturday in October and February 15; Virginia, a 40-day season between November 15 and January 14 with a 3-bird daily bag limit and an experimental season between January 15–February 15 with a 5-bird daily bag limit; and North Carolina a 70-day season with a 5-bird daily bag limit between October 1 and December 31. In addition, they recommended modifying the SJBP harvest zone in Pennsylvania to include the former Pymatuning Zone and that portion of Mercer, Crawford and Erie Counties north of Interstate 80 and west of Interstate 79 including Lake Erie, Presque Isle, and the area within 150 yards of the Lake Erie shoreline.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended a number of changes in Canada goose zones, seasons lengths, and bag limits for several States in the Flyway. These changes are a result of approved revisions to the Southern James Bay Population (SJBP) Canada goose harvest strategy and management plan that were made in agreement with the Atlantic Flyway. These changes are consistent with the revised harvest strategies for Canada geese in the Mississippi Flyway.

The Pacific Flyway Council recommended revising Idaho zone designations for 2 counties (Adams and Valley Counties from Zone 2 to Zone 1), and reducing the bag limit on dark geese in Wyoming from 4 to 3 geese.

Written Comments: The Virginia Department of Game and Inland Fisheries requested a change in the zone

boundary between the AP and SJBP Canada goose hunting zones based on concerns from farmers that large numbers of Canada geese are depredating crops. They requested the zone boundary between the two populations be moved further east to allow more liberal regulations (i.e., longer season or larger bag limit) in the area of concern.

The Louisiana Department of Wildlife and Fisheries requested removal of the requirement to issue a permit for Canada goose hunting. They stated that recent changes to their licensing structure effectively meet this requirement.

The Virginia Farm Bureau supported the request to move the zone boundary between the AP and SJBP Canada goose hunting zones. They further supported extending the season into February and March to address depredation concerns and expanding the daily bag limit for AP geese from 2 to 3 per day.

Service Response: We concur with the Atlantic Flyway Council's recommendations to modify existing criteria for delineation and subsequent evaluation of AFRP hunting zones. Evaluations of AFRP seasons since 2002 have demonstrated that these seasons have met the established criteria of less than a 1 percent direct recovery rate of migrant geese. We note that a migrant (AP, NAP, SJBP) direct recovery rate of 0.35 percent was realized for the 2005–2007 period. AFRP zones have resulted in higher hunter opportunity and higher AFRP goose harvests, and current North Atlantic Population Canada Goose Low Harvest zones have shown to be effective in minimizing NAP harvest. The Atlantic Flyway Council's proposed modification to allow certain portions of existing NAP Harvest zones to become AFRP zones will allow for greater harvest opportunity on AFRP geese while further protecting NAP stocks. Current direct recovery rates of NAP geese in the United States are 2.9 percent, equating to a harvest rate of < 6 percent. As band return data accumulate, adjustments to existing AFRP zones and establishment of new zones should utilize these data. We will continue to evaluate these AFRP seasons annually through leg band recoveries and at 3-year intervals a comprehensive evaluation of all available data will occur to ensure compliance with established criteria. Lastly, we note that these proposed modifications for delineation of new AFRP zones in certain portions of existing NAP harvest zones are in accordance with the current North Atlantic Population Canada Goose Management Plan.

We also concur with the Atlantic Flyway Council's recommendations to modify AFRP hunting zones in Maryland, New York, and Pennsylvania, establish new AFRP zones in Connecticut and Long Island, New York, and modify the AFRP zone season opening and closing framework dates in Maryland, North Carolina, Pennsylvania, and Virginia. These recommended changes all conform to the existing criteria, as amended above, for delineating AFRP hunting zones and establishing AFRP season framework dates. We further note that resident Canada geese are overabundant in many areas of the Atlantic Flyway and currently number approximately 1.0 million birds, significantly above the goal in the Atlantic Flyway Resident Canada Goose Management Plan of 650,000 geese. All of the Flyway's objectives to increase the harvest of resident Canada geese are consistent with those identified in the Service's 2005 Final Environmental Impact Statement on Resident Canada Goose Management (70 FR 69985, November 18, 2005).

We also concur with the Atlantic Flyway Council's recommended frameworks for the SJBP harvest zones in the Atlantic Flyway. We note that the SJBP Management Plan was recently revised and approved by both the Atlantic and Mississippi Flyway Councils and guides management decisions in both flyways. The plan goal is to maintain the SJBP at a level that can sustain use throughout its current range, while allowing for the management of resident Canada geese. A key part of the plan is a harvest strategy designed to test the resident Canada goose buffering hypothesis. This hypothesis states that large populations of resident Canada geese are now buffering the harvest of SJBP geese, and therefore liberalization in hunting regulations will result in more harvest of resident Canada geese, and not SJBP Canada geese. Further, genetic studies and analysis of band recoveries indicate SJBP harvest zones in many States no longer function as concentration zones for SJBP geese and may therefore be ineffective at protecting SJBP geese. We agree that these reductions in hunting opportunity and hunting pressure on resident Canada geese may not be warranted when many SJBP harvest zones hold a smaller proportion of SJBP geese than they did historically. The newly revised SJBP plan also calls for holding regulations stable for a 5-year period (2008–2013). If the spring population estimate falls below 50,000 in combination with either an unabated negative trend in the estimate over 3 years or more, and evidence of unsustainable harvest rates, then appropriate regulation changes will be implemented as/when necessary in both the Atlantic and Mississippi Flyways. We believe that these proposed regulation changes will provide for increased hunting opportunity and harvest of AFRP geese, while maintaining the SJBP at levels identified in the 2008 plan.

We do not agree with the requests from the Virginia Department of Game and Inland Fisheries and the Virginia Farm Bureau for moving the zone boundary between the AP and SJBP Canada goose hunting zones. We have no biological information to warrant such a change, and a request of this nature should be brought through the Atlantic Flyway Council. We also do not support the request to increase the daily bag limit of AP geese in Virginia. The Atlantic Flyway Council considered the status of the AP Canada goose population and concluded that no liberalization of hunting regulations was warranted for that population, and we concur with their conclusion.

Regarding the request from the Louisiana Department of Wildlife and Fisheries to remove the requirement for a permit to hunt Canada geese, we concur. As they stated in their comment, recent changes to their licensing structure effectively meet this requirement.

We also concur with all of the recommendations forwarded by the Pacific Flyway Council. Some of these changes are designed to afford greater protection to Tule white-fronted geese and the Service strongly supports these efforts (see discussion under 5. White-fronted Geese). In addition, the other changes in Canada goose seasons are relatively minor and are being undertaken for administrative reasons and are not expected to impact populations.

5. White-Fronted Geese

Council Recommendations: The Pacific Flyway Council recommended the following area, bag, and season length changes described below:

(1) In the Lake County portion of the Harney, Lake, and Malheur County Zone reduce the daily bag limit for white-fronted geese from 2 to 1;

(2) In the Klamath County Zone of Oregon, for hunting days occurring after the last Sunday in January, change the daily bag limit of 2 white-fronted geese to a bag limit of 1 white-fronted goose and 3 white geese;

(3) Reduce the bag limit on dark geese in Wyoming from 4 to 3 geese.

Service Response: We concur with the proposed changes in goose frameworks proposed by the Pacific Flyway Council. In general, these changes are designed to afford greater protection to Tule white-fronted geese and we strongly support these efforts. Tule greater white-fronted geese continue to be of concern because of low population numbers. In Oregon, Tule white-fronted geese are predominantly encountered in Lake County where the bag limit for white-fronted geese has been two for some time. Because of the continued concern for Tule geese, and uncertainty about their true population size, we agree with the Pacific Flyway Council that a reduction in harvest is warranted. This change will keep Tule goose harvest in Oregon at minimum levels and support ongoing research efforts to assess population status.

We note, however, that indices to the Pacific population of white-fronted geese exceed management plan goals and this population is responsible for numerous agricultural depredation complaints in the Klamath Basin as well. However, given the concerns over the status of population of Tule white-fronted geese, which, as documented through telemetry observations, are present in at least very low numbers in the Oregon portion of the Klamath Basin during this time period, further assessment is warranted.

6. Brant

Council Recommendations: The Atlantic Flyway Council recommends a 60-day season with a 3-bird daily bag limit for Atlantic brant.

Service Response: We concur with the Atlantic Flyway Council's recommendation. The 2008 Mid-Winter Index (MWI) for Atlantic brant was 160,618 brant. The Brant Management Plan prescribes a 60-day season with a 3-bird daily bag limit when the MWI estimate is above 150,000 and productivity and food supplies are deemed sufficient to sustain additional harvest opportunity. We note that productivity for 2008 looks very good on the main breeding grounds and that productivity in 2007 was good, with approximately 28–31 percent young in the fall productivity surveys. Thus, we agree with the Council that an increase of 10 days with the associated daily bag limit increase is the proper approach for the upcoming season.

7. Snow and Ross's (Light) Geese

Council Recommendations: The Pacific Flyway Council recommended several area, bag, and season length changes for light geese:

(1) In the States of California, Oregon, and Washington, increase the light goose season length to 107 days, and in the States of California and Oregon, increase the bag limit to 6 light geese per day and extend the light goose framework ending date to March 10; in Washington, the light goose bag limit remains at 4;

(2) Increase the bag limit to 10 light geese per day in all other States of the Pacific Flyway with a framework ending date of March 10; and

(3) In the Klamath County Zone of Oregon, for hunting days occurring after the last Sunday in January, change the daily bag limit of 2 white-fronted geese to a bag limit of 1 white-fronted goose and 3 white geese.

Service Response: We support the proposed changes for light geese in the Pacific Flyway. Last year the Flyway's December goose count exceeded 1 million for the first time, representing a doubling of this index since 1999. Light goose indices (Snow and Ross' geese combined) indicate that all recognized populations currently exceed management plan goals. In some areas of the Pacific Flyway, these goose populations are leading to increasing depredation complaints. In addition, numbers of light geese breeding on Wrangle Island, Russia, a colony that has been of concern in the past, has recovered to near record levels in the past few years. We support efforts to increase harvest of these geese in aid of limiting further population growth and perhaps avoiding the overabundance problems associated with the species that have been documented in the mid-continent region.

NEPA Consideration

NEPA considerations are covered by the programmatic document ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published a notice of availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the address indicated under the caption **ADDRESSES**.

In a notice published in the September 8, 2005, **Federal Register** (70 FR 53376), we announced our intent to develop a new Supplemental Environmental Impact Statement for the migratory bird hunting program. Public scoping meetings were held in the spring of 2006, as detailed in a March 9, 2006, **Federal Register** (71 FR 12216). We have prepared a scoping report summarizing the scoping comments and scoping meetings. The report is available by either writing to the address indicated under **ADDRESSES** or by viewing on our Web site at *http://www.fws.gov/migratorybirds.*

Endangered Species Act Consideration

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *.'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to adversely affect any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final frameworks reflect any such modifications. Our biological opinions resulting from this section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES**.

Executive Order 12866

The Office of Management and Budget has determined that this rule is significant and has reviewed this rule under Executive Order 12866. OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

Regulatory Flexibility Act

The regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, and 2008. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2008 Analysis was based on the 2006 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.2 billion at small businesses in 2008. Copies of the Analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.fws.gov/migratorybirds/reports/reports.html* or at *http://www.regulations.gov.*

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of our Migratory Bird Surveys and assigned control number 1018–0023 (expires 2/28/2011). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

In promulgating this rule, we have determined that it will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. Thus, in accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, in the May 28 proposed rule we solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2008–09 migratory bird hunting season. By virtue of these actions, we have consulted with all the Tribes affected by this rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or tribe may be more restrictive than the Federal frameworks. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking,

States would have insufficient time to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. We therefore find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

Therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711), we prescribe final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials will select hunting season dates and other options. Upon receipt of season selections from these officials, we will publish a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the conterminous United States for the 2008–09 season.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: September 18, 2008.

Lyle Laverty,

Assistant Secretary for Fish and Wildlife and Parks.

PART 20—[AMENDED]

The rules that eventually will be promulgated for the 2008–09 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742a–j.

Final Regulations Frameworks for 2008–09 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department has approved the following frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl and coots between the dates of September 1, 2008, and March 10, 2009.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Flyways and Management Units

Waterfowl Flyways

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Management Units

High Plains Mallard Management Unit—roughly defined as that portion of the Central Flyway that lies west of the 100th meridian.

Definitions: For the purpose of hunting regulations listed below, the collective terms ''dark'' and ''light'' geese include the following species:

Dark geese: Canada geese, white-fronted geese, brant (except in California, Oregon, Washington, and the Atlantic Flyway), and all other goose species except light geese.

Light geese: Snow (including blue) geese and Ross' geese.

Area, Zone, and Unit Descriptions: Geographic descriptions related to late-season regulations are contained in a later portion of this document.

Area-Specific Provisions: Frameworks for open seasons, season lengths, bag and possession limits, and other special provisions are listed below by Flyway.

Waterfowl Seasons in the Atlantic Flyway

In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, and Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Special Youth Waterfowl Hunting Days

Outside Dates: States may select 2 consecutive days (hunting days in Atlantic Flyway States with compensatory days) per duck-hunting zone, designated as ''Youth Waterfowl Hunting Days,'' in addition to their regular duck seasons. The days must be held outside any regular duck season on a weekend, holiday, or other non-school day when youth hunters would have the maximum opportunity to participate. The days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limits may include ducks, geese, tundra swans, mergansers, coots, moorhens, and gallinules and would be the same as those allowed in the regular season. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions: Youth hunters must be 15 years of age or younger. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult may not duck hunt but may participate in other seasons that are open on the special youth day. Tundra swans may only be taken by participants possessing applicable tundra swan permits.

Atlantic Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 27) and the last Sunday in January (January 25).

Hunting Seasons and Duck Limits: 60 days. The daily bag limit is 6 ducks, including no more than 4 mallards (2 hens), 1 black duck, 1 pintail, 1 mottled duck, 1 fulvous whistling duck, 3 wood ducks, 2 redheads, and 4 scoters. For scaup, the daily bag limit may be 2 for up to 20 consecutive hunting days, which may be split according to applicable zones/split duck hunting configurations approved for each State, and 1 for the remainder of the season. A daily bag limit of 2 scaup may also be included in the 6-bird daily bag limit for designated youth-hunt days.

Closures: The season on canvasbacks and harlequin ducks is closed.

Sea Ducks: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open

season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

Merganser Limits: The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only two of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Lake Champlain Zone, New York: The waterfowl seasons, limits, and shooting hours shall be the same as those selected for the Lake Champlain Zone of Vermont.

Connecticut River Zone, Vermont: The waterfowl seasons, limits, and shooting hours shall be the same as those selected for the Inland Zone of New Hampshire.

Zoning and Split Seasons: Delaware, Florida, Georgia, Maryland, North Carolina, Rhode Island, South Carolina, and Virginia may split their seasons into three segments; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, and West Virginia may select hunting seasons by zones and may split their seasons into two segments in each zone.

Canada Geese

Season Lengths, Outside Dates, and Limits: Specific regulations for Canada geese are shown below by State. These seasons also include white-fronted geese. Unless specified otherwise, seasons may be split into two segments. In areas within States where the framework closing date for Atlantic Population (AP) goose seasons overlaps with special late-season frameworks for resident geese, the framework closing date for AP goose seasons is January 14.

Connecticut

North Atlantic Population (NAP) Zone: Between October 1 and January 31, a 60-day season may be held with a 2-bird daily bag limit.

Atlantic Population (AP) Zone: A 45-day season may be held between the fourth Saturday in October (October 25) and January 31, with a 3-bird daily bag limit.

South Zone: A special season may be held between January 15 and February 15, with a 5-bird daily bag limit.

Resident Population (RP) Zone: An 80-day season may be held between October 1 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Delaware: A 45-day season may be held between November 15 and January 31, with a 2-bird daily bag limit.

Florida: An 80-day season may be held between November 15 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Georgia: In specific areas, an 80-day season may be held between November 15 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Maine: A 60-day season may be held Statewide between October 1 and January 31, with a 2-bird daily bag limit.

Maryland

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 45-day season may be held between November 15 and January 31, with a 2-bird daily bag limit.

Massachusetts

NAP Zone: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit. Additionally, a special season may be held from January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 45-day season may be held between October 20 and January 31, with a 3-bird daily bag limit.

New Hampshire

A 60-day season may be held statewide between October 1 and January 31, with a 2-bird daily bag limit.

New Jersey

Statewide: A 45-day season may be held between the fourth Saturday in October (October 25) and January 31, with a 3-bird daily bag limit.

Special Late Goose Season Area: An experimental season may be held in designated areas of North and South New Jersey from January 15 to February 15, with a 5-bird daily bag limit.

New York

NAP Zone: Between October 1 and January 31, a 60-day season may be held, with a 2-bird daily bag limit in the High Harvest areas; and between October 1 and February 15, a 70-day season may be held, with a 3-bird daily bag limit in the Low Harvest areas.

Special Late Goose Season Area: An experimental season may be held between January 15 and February 15, with a 5-bird daily bag limit in designated areas of Chemung, Delaware, Tioga, Broome, Sullivan, Westchester, Nassau, Suffolk, Orange, Dutchess, Putnam, and Rockland Counties.

AP Zone: A 45-day season may be held between the fourth Saturday in October (October 25), except in the Lake Champlain Area where the opening date is October 20, and January 31, with a 3-bird daily bag limit.

Western Long Island RP Zone: An 80-day season may be held between October 1 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Rest of State RP Zone: An 80-day season may be held between the fourth Saturday in October (October 25) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

North Carolina

SJBP Zone: A 70-day season may be held between October 1 and December 31, with a 5-bird daily bag limit.

RP Zone: An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Northeast Hunt Unit: A 30-day experimental season (1,000 permits) may be held concurrent with the season selected for the Back Bay Area of Virginia. The seasonal bag limit is 1 bird.

Pennsylvania

SJBP Zone: A 70-day season may be held between the second Saturday in October (October 11) and February 15.

RP Zone: An 80-day season may be held between the fourth Saturday in October (October 25) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 45-day season may be held between the fourth Saturday in October (October 25) and January 31, with a 3-bird daily bag limit.

Rhode Island

A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit. An experimental season may be held in designated areas from January 15 to February 15, with a 5-bird daily bag limit.

South Carolina

In designated areas, an 80-day season may be held during November 15 to February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Vermont

A 45-day season may be held between the fourth Saturday in October (October 25), except in the Lake Champlain Zone and Interior Zone where the opening date is October 20, and January 31, with a 3-bird daily bag limit.

Virginia

SJBP Zone: A 40-day season may be held between November 15 and January

14, with a 3-bird daily bag limit. Additionally, an experimental season may be held between January 15 and February 15, with a 5-bird daily bag limit.

AP Zone: A 45-day season may be held between November 15 and January 31, with a 2-bird daily bag limit.

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Back Bay Area: A 30-day experimental season may be held between December 22 and January 24 in the AP Zone, with a 2-bird daily bag limit.

West Virginia

An 80-day season may be held between October 1 and January 31, with a 5-bird daily bag limit. The season may be split into 2 segments in each zone.

Light Geese

Season Lengths, Outside Dates, and Limits: States may select a 107-day season between October 1 and March 10, with a 15-bird daily bag limit and no possession limit. States may split their seasons into three segments, except in Delaware and Maryland, where, following the completion of their duck season, and until March 10, Delaware and Maryland may split the remaining portion of the season to allow hunting on Mondays, Wednesdays, Fridays, and Saturdays only.

Brant

Season Lengths, Outside Dates, and Limits: States may select a 60-day season between the Saturday nearest September 24 (September 27) and January 31, with a 3-bird daily bag limit. States may split their seasons into two segments.

Mississippi Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 27) and the last Sunday in January (January 25).

Hunting Seasons and Duck Limits: The season may not exceed 60 days, with a daily bag limit of 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 3 mottled ducks, 1 black duck, 1 pintail, 3 wood ducks, and 2 redheads. For scaup, the daily bag limit may be 2 for up to 20 consecutive hunting days, which may be split according to applicable zones/split duck hunting configurations approved for each State, and 1 for the remainder of the season. The season for canvasbacks is closed. A daily bag limit of 2 scaup may also be included in the 6-bird daily bag limit for designated youth-hunt days.

Merganser Limits: The daily bag limit is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Alabama, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin may select hunting seasons by zones.

In Alabama, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Ohio, Tennessee, and Wisconsin, the season may be split into two segments in each zone.

In Arkansas and Mississippi, the season may be split into three segments.

Geese

Split Seasons: Seasons for geese may be split into three segments.

Season Lengths, Outside Dates, and Limits: States may select seasons for light geese not to exceed 107 days, with 20 geese daily between the Saturday nearest September 24 (September 27) and March 10; for white-fronted geese not to exceed 72 days with 2 geese daily or 86 days with 1 goose daily between the Saturday nearest September 24 (September 27) and the Sunday nearest February 15 (February 15); and for brant not to exceed 70 days, with 2 brant daily or 107 days with 1 brant daily between the Saturday nearest September 24 (September 27) and January 31. There is no possession limit for light geese. Specific regulations for Canada geese and exceptions to the above general provisions are shown below by State. Except as noted below, the outside dates for Canada geese are the Saturday nearest September 24 (September 27) and January 31.

Alabama: In the SJBP Goose Zone, the season for Canada geese may not exceed 70 days. Elsewhere, the season for Canada geese may extend for 70 days in the respective duck-hunting zones. The daily bag limit is 2 Canada geese.

Arkansas: In the Northwest Zone, the season for Canada geese may extend for 50 days. In the remainder of the State, the season may not exceed 40 days. The season may extend to February 15. The daily bag limit is 2 Canada geese.

Illinois: The season for Canada geese may extend for 85 days in the North and Central Zones and 66 days in the South Zone. The daily bag limit is 2 Canada geese.

Indiana: The season for Canada geese may extend for 74 days. The daily bag limit is 2 Canada geese.

Late Canada Goose Season Zone—an experimental special Canada goose season of up to 15 days may be held during February 1–15. During this special season the daily bag limit cannot exceed 5 Canada geese.

Iowa: The season for Canada geese may extend for 90 days. The daily bag limit is 2 Canada geese.

Kentucky: (a) Western Zone—The season for Canada geese may extend for 70 days (85 days in Fulton County). The season in Fulton County may extend to February 15. The daily bag limit is 2 Canada geese.

(b) Pennyroyal/Coalfield Zone—The season may extend for 70 days. The daily bag limit is 2 Canada geese.

(c) Remainder of the State—The season may extend for 70 days. The daily bag limit is 2 Canada geese.

Louisiana: The season for Canada geese may extend for 16 days. During the season, the daily bag limit is 1 Canada goose and 2 white-fronted geese with a 72-day white-fronted goose season or 1 white-fronted goose with an 86-day season.

Michigan: (a) North Zone—The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days. The daily bag limit is 2 Canada geese.

(b) Middle Zone—The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days. The daily bag limit is 2 Canada geese.

(c) South Zone—The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days. The daily bag limit is 2 Canada geese.

(1) Allegan County and Muskegon Wastewater GMU—The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days. The daily bag limit is 2 Canada geese.

(2) Saginaw County and Tuscola/Huron GMUs—The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days through December 30 and an additional 30 days may be held between December 31 and February 7. The daily bag limit is 2 Canada geese.

(d) Southern Michigan Late Season Canada Goose Zone—A 30-day special Canada goose season may be held between December 31 and February 7. The daily bag limit may not exceed 5 Canada geese.

Minnesota:

(a) West Zone.

(1) West Central Zone—The season for Canada geese may extend for 41 days. The daily bag limit is 2 Canada geese.

(2) Remainder of West Zone—The season for Canada geese may extend for 60 days. The daily bag limit is 2 Canada geese.

(b) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese.

(c) Special Late Canada Goose Season—A special Canada goose season of up to 10 days may be held in December, except in the West Central Goose zone. During the special season, the daily bag limit is 5 Canada geese, except in the Southeast Goose Zone, where the daily bag limit is 2.

Mississippi: The season for Canada geese may extend for 70 days. The daily bag limit is 3 Canada geese.

Missouri: The season for Canada geese may extend for 79 days and may be split into 3 segments provided that at least 1 segment of at least 9 days occurs prior to October 16. The daily bag limit is 3 Canada geese through October 15 and 2 Canada geese thereafter.

Ohio:

(a) Lake Erie Zone—The season may extend for 70 days with no more than one split and must close no later than December 28, 2008. The daily bag limit is 2 Canada geese.

(b) North Zone—The season may extend for 70 days with no more than one split and must close no later than January 11, 2009. The daily bag limit is 2 Canada geese.

(c) South Zone—The season may extend for 70 days with no more than one split and must close no later than January 25, 2009. The daily bag limit is 2 Canada geese.

Tennessee:

(a) Northwest Zone—The season for Canada geese may not exceed 72 days, and may extend to February 15. The daily bag limit is 2 Canada geese.

(b) Southwest Zone—The season for Canada geese may extend for 72 days. The daily bag limit is 2 Canada geese.

(c) Kentucky/Barkley Lakes Zone—The season for Canada geese may extend for 72 days. The daily bag limit is 2 Canada geese.

(d) Remainder of the State—The season for Canada geese may extend for 72 days. The daily bag limit is 2 Canada geese.

Wisconsin:

(a) Horicon Zone—The framework opening date for all geese is September 16. The season may not exceed 92 days. All Canada geese harvested must be tagged. The season limit will be 6 Canada geese per permittee.

(b) Collins Zone—The framework opening date for all geese is September 16. The season may not exceed 70 days. All Canada geese harvested must be tagged. The season limit will be 6 Canada geese per permittee.

(c) Exterior Zone—The framework opening date for all geese is September 16. The season may not exceed 85 days. The daily bag limit is 2 Canada geese.

Additional Limits: In addition to the harvest limits stated for the respective zones above, an additional 4,500 Canada geese may be taken in the Horicon Zone under special agricultural permits.

Central Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 27) and the last Sunday in January (January 25).

Hunting Seasons

(1) High Plains Mallard Management Unit (roughly defined as that portion of the Central Flyway which lies west of the 100th meridian): 97 days. The last 23 days may start no earlier than the Saturday nearest December 10 (December 13).

(2) *Remainder of the Central Flyway:* 74 days.

Bag Limits

(1) Colorado, Montana, Nebraska, New Mexico, and Oklahoma: The daily bag limit is 6 ducks, with species and sex restrictions as follows: 5 mallards (no more than 2 of which may be females), 2 redheads, 2 scaup, 2 wood ducks, 1 pintail, 1 mottled duck, and 1 canvasback. For pintails and canvasbacks, the season length would be 39 days, which may be split according to applicable zones/split duck hunting configurations approved for each State. A single canvasback and pintail may also be included in the 6-bird daily bag limit for designated youth-hunt days.

(2) Kansas, North Dakota, South Dakota, Texas, and Wyoming: The daily bag limit is 5 ducks, with species and sex restrictions as follows: 2 scaup, 2 redheads, and 2 wood ducks, and only 1 duck from the following group—hen mallard, mottled duck, pintail, canvasback.

Merganser Limits: The daily bag limit is 5 mergansers, only 2 of which may be hooded mergansers. In States that include mergansers in the duck daily bag limit, the daily limit may be the same as the duck bag limit, only two of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Kansas (Low Plains portion), Montana, Nebraska (Low Plains portion), New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

In Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, the regular season may be split into two segments.

In Colorado, the season may be split into three segments.

Geese

Split Seasons: Seasons for geese may be split into three segments. Three-way split seasons for Canada geese require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation by each participating State.

Outside Dates: For dark geese, seasons may be selected between the outside dates of the Saturday nearest September 24 (September 27) and the Sunday nearest February 15 (February 15). For light geese, outside dates for seasons may be selected between the Saturday nearest September 24 (September 27) and March 10. In the Rainwater Basin Light Goose Area (East and West) of Nebraska, temporal and spatial restrictions that are consistent with the late-winter snow goose hunting strategy cooperatively developed by the Central Flyway Council and the Service are required.

Season Lengths and Limits

Light Geese: States may select a light goose season not to exceed 107 days. The daily bag limit for light geese is 20 with no possession limit.

Dark Geese: In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, States may select a season for Canada geese (or any other dark goose species except white-fronted geese) not to exceed 107 days with a daily bag limit of 3. Additionally, in the Eastern Goose Zone of Texas, an alternative season of 107 days with a daily bag limit of 1 Canada goose may be selected. For white-fronted geese, these States may select either a season of 72 days with a bag limit of 2 or an 86-day season with a bag limit of 1.

In Montana, New Mexico and Wyoming, States may select seasons not to exceed 107 days. The daily bag limit for dark geese is 5 in the aggregate.

In Colorado, the season may not exceed 107 days. The daily bag limit is 4 dark geese in the aggregate.

In the Western Goose Zone of Texas, the season may not exceed 95 days. The daily bag limit for Canada geese (or any

other dark goose species except white-fronted geese) is 4. The daily bag limit for white-fronted geese is 1.

Pacific Flyway

Ducks, Mergansers, Coots, Common Moorhens, and Purple Gallinules

Hunting Seasons and Duck Limits: Concurrent 107 days. The daily bag limit is 7 ducks and mergansers, including no more than 2 female mallards, 1 pintail, 2 scaup, and 2 redheads. For scaup, the season length would be 86 days, which may be split according to applicable zones/split duck hunting configurations approved for each State. The season on canvasbacks is closed. A daily bag limit of 2 scaup may also be included in the 7-bird daily bag limit for designated youth-hunt days.

The season on coots and common moorhens may be between the outside dates for the season on ducks, but not to exceed 107 days.

Coot, Common Moorhen, and Purple Gallinule Limits: The daily bag and possession limits of coots, common moorhens, and purple gallinules are 25, singly or in the aggregate.

Outside Dates: Between the Saturday nearest September 24 (September 27) and the last Sunday in January (January 25).

Zoning and Split Seasons: Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming may select hunting seasons by zones. Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming may split their seasons into two segments.

Colorado, Montana, and New Mexico may split their seasons into three segments.

Colorado River Zone, California: Seasons and limits shall be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

Geese

Season Lengths, Outside Dates, and Limits

California, Oregon, and Washington:

Dark geese: Except as subsequently noted, 100-day seasons may be selected, with outside dates between the Saturday nearest October 1 (October 4), and the last Sunday in January (January 25). The basic daily bag limit is 4 dark geese, except the dark goose bag limit does not include brant.

Light geese: Except as subsequently noted, 107-day seasons may be selected, with outside dates between the Saturday nearest October 1 (October 4), and March 10. The daily bag limit is 6 light geese.

Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming:

Dark geese: Except as subsequently noted, 107-day seasons may be selected, with outside dates between the Saturday nearest September 24 (September 27), and the last Sunday in January (January 25). The basic daily bag limit is 4 dark geese.

Light geese: Except as subsequently noted, 107-day seasons may be selected, with outside dates between the Saturday nearest September 24 (September 27), and March 10. The basic daily bag limit is 10 light geese.

Split Seasons: Unless otherwise specified, seasons for geese may be split into up to 3 segments. Three-way split seasons for Canada geese and white-fronted geese require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

Brant Season

Oregon may select a 16-day season, Washington a 16-day season, and California a 30-day season. Days must be consecutive. Washington and California may select hunting seasons by up to two zones. The daily bag limit is 2 brant and is in addition to dark goose limits. In Oregon and California, the brant season must end no later than December 15.

Arizona: The daily bag limit for dark geese is 3.

California:

Northeastern Zone: The daily bag limit is 6 dark geese and may include no more than 1 cackling Canada goose or 1 Aleutian Canada goose.

Balance-of-the-State Zone: Limits may not include more than 6 dark geese per day. In the Sacramento Valley Special Management Area (West), the season on white-fronted geese must begin no earlier than the last Saturday in October and end on or before December 14, and the daily bag limit shall contain no more than 2 white-fronted geese. In the North Coast Special Management Area, 107-day seasons may be selected, with outside dates between the Saturday nearest October 1 (October 4) and March 10. Hunting days that occur after the last Sunday in January shall be concurrent with Oregon's South Coast Zone.

Colorado: The daily bag limit for dark geese is 3 geese.

Nevada: The daily bag limit for dark geese is 3.

New Mexico: The daily bag limit for dark geese is 3.

Oregon:

Except as subsequently noted, the dark goose daily bag limit is 4, including not more than 1 cackling or Aleutian goose.

Harney, Lake, and Malheur County Zone: For Lake County only, the daily dark goose bag limit may not include more than 1 white-fronted goose.

Klamath County Zone: A 107-day season may be selected, with outside dates between the Saturday nearest October 1 (October 4), and March 10. A 3-way split season may be selected. The daily goose bag limit is 4 dark geese and 4 white geese except for hunting days that occur after the last Sunday in January when only light geese and white-fronted geese may be taken. The daily bag limit of geese is 4 of which only 3 may be light geese and only 1 may be a white-fronted goose.

Northwest Special Permit Zone: Outside dates are between the Saturday nearest October 1 (October 4), and the Sunday closest to March 1 (March 1). The daily bag limit of dark geese is 4 including not more than 2 cackling or Aleutian geese and daily bag limit of light geese is 4. In those designated areas of Tillamook County open to hunting, the daily bag limit of dark geese is 2.

South Coast Zone: The daily dark goose bag limit is 4 including cackling and Aleutian geese. In Oregon's South Coast Zone 107-day seasons may be selected, with outside dates between the Saturday nearest October 1 (October 4) and March 10. Hunting days that occur after the last Sunday in January shall be concurrent with California's North Coast Special Management Area. A 3-way split season may be selected.

Southwest Zone: The daily dark goose bag limit is 4 including cackling and Aleutian geese.

Utah: The daily bag limit for dark geese is 3.

Washington: The daily bag limit is 4 geese.

Area 1: Outside dates are between the Saturday nearest October 1 (October 4), and the last Sunday in January (January 25).

Areas 2A and 2B (Southwest Quota Zone): Except for designated areas, there will be no open season on Canada geese. See section on quota zones. In this area, the daily bag limit may include 2 cackling geese. In Southwest Quota Zone Area 2B (Pacific County), the daily bag limit may include 1 Aleutian goose.

Areas 4 and 5: A 107-day season may be selected for dark geese.

Wyoming: The daily bag limit for dark geese is 3.

Quota Zones

Seasons on geese must end upon attainment of individual quotas of dusky geese allotted to the designated

areas of Oregon (165) and Washington (85). The September Canada goose season, the regular goose season, any special late dark goose season, and any extended falconry season, combined, must not exceed 107 days, and the established quota of dusky geese must not be exceeded. Hunting of geese in those designated areas will only be by hunters possessing a State-issued permit authorizing them to do so. In a Service approved investigation, the State must obtain quantitative information on hunter compliance of those regulations aimed at reducing the take of dusky geese. If the monitoring program cannot be conducted, for any reason, the season must immediately close. In the designated areas of the Washington Southwest Quota Zone, a special late goose season may be held between the Saturday following the close of the general goose season and March 10. In the Northwest Special Permit Zone of Oregon, the framework closing date is extended to the Sunday closest to March 1 (March 1). Regular goose seasons may be split into 3 segments within the Oregon and Washington quota zones.

Swans

In portions of the Pacific Flyway (Montana, Nevada, and Utah), an open season for taking a limited number of swans may be selected. Permits will be issued by the State and will authorize each permittee to take no more than 1 swan per season with each permit. Nevada may issue up to 2 permits per hunter. Montana and Utah may only issue 1 permit per hunter. Each State's season may open no earlier than the Saturday nearest October 1 (October 4). These seasons are also subject to the following conditions:

Montana: No more than 500 permits may be issued. The season must end no later than December 1. The State must implement a harvest-monitoring program to measure the species composition of the swan harvest and should use appropriate measures to maximize hunter compliance in reporting bill measurement and color information.

Utah: No more than 2,000 permits may be issued. During the swan season, no more than 10 trumpeter swans may be taken. The season must end no later than the second Sunday in December (December 14) or upon attainment of 10 trumpeter swans in the harvest, whichever occurs earliest. The Utah season remains subject to the terms of the Memorandum of Agreement entered into with the Service in August 2001, regarding harvest monitoring, season closure procedures, and education requirements to minimize the take of trumpeter swans during the swan season.

Nevada: No more than 650 permits may be issued. During the swan season, no more than 5 trumpeter swans may be taken. The season must end no later than the Sunday following January 1 (January 4) or upon attainment of 5 trumpeter swans in the harvest, whichever occurs earliest.

In addition, the States of Utah and Nevada must implement a harvest-monitoring program to measure the species composition of the swan harvest. The harvest-monitoring program must require that all harvested swans or their species-determinant parts be examined by either State or Federal biologists for the purpose of species classification. The States should use appropriate measures to maximize hunter compliance in providing bagged swans for examination. Further, the States of Montana, Nevada, and Utah must achieve at least an 80-percent compliance rate, or subsequent permits will be reduced by 10 percent. All three States must provide to the Service by June 30, 2009, a report detailing harvest, hunter participation, reporting compliance, and monitoring of swan populations in the designated hunt areas.

Tundra Swans

In portions of the Atlantic Flyway (North Carolina and Virginia) and the Central Flyway (North Dakota, South Dakota [east of the Missouri River], and that portion of Montana in the Central Flyway), an open season for taking a limited number of tundra swans may be selected. Permits will be issued by the States that authorize the take of no more than 1 tundra swan per permit. A second permit may be issued to hunters from unused permits remaining after the first drawing. The States must obtain harvest and hunter participation data. These seasons are also subject to the following conditions:

In the Atlantic Flyway

—The season may be 90 days, from October 1 to January 31.
—In North Carolina, no more than 5,000 permits may be issued.
—In Virginia, no more than 600 permits may be issued.

In the Central Flyway

—The season may be 107 days, from the Saturday nearest October 1 (October 4) to January 31.
—In the Central Flyway portion of Montana, no more than 500 permits may be issued.
—In North Dakota, no more than 2,200 permits may be issued.
—In South Dakota, no more than 1,300 permits may be issued.

Area, Unit, and Zone Descriptions

Ducks (Including Mergansers) and Coots

Atlantic Flyway

Connecticut

North Zone: That portion of the State north of I–95.

South Zone: Remainder of the State.

Maine

North Zone: That portion north of the line extending east along Maine State Highway 110 from the New Hampshire and Maine State line to the intersection of Maine State Highway 11 in Newfield; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of Interstate Highway 95 in Augusta; then north and east along I–95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the United States border.

South Zone: Remainder of the State.

Massachusetts

Western Zone: That portion of the State west of a line extending south from the Vermont State line on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut State line.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire State line on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island State line; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.–Elm St. bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Coastal Zone: That portion of the State east of a line extending west from the Maine State line in Rollinsford on NH 4 to the city of Dover, south to NH 108, south along NH 108 through Madbury, Durham, and Newmarket to NH 85 in Newfields, south to NH 101 in Exeter, east to NH 51 (Exeter-Hampton Expressway), east to I–95 (New Hampshire Turnpike) in

Hampton, and south along I–95 to the Massachusetts State line.

Inland Zone: That portion of the State north and west of the above boundary and along the Massachusetts State line crossing the Connecticut River to Interstate 91 and northward in Vermont to Route 2, east to 102, northward to the Canadian border.

New Jersey

Coastal Zone: That portion of the State seaward of a line beginning at the New York State line in Raritan Bay and extending west along the New York State line to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware State line in Delaware Bay.

North Zone: That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania State line in the Delaware River.

South Zone: That portion of the State not within the North Zone or the Coastal Zone.

New York

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont State line.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania State line.

Northeastern Zone: That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81 to NY 31, east along NY 31 to NY 13, north along NY 13 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont State line, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Pennsylvania

Lake Erie Zone: The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

Northwest Zone: The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I–80.

North Zone: That portion of the State east of the Northwest Zone and north of a line extending east on I–80 to U.S. 220, Route 220 to I–180, I–180 to I–80, and I–80 to the Delaware River.

South Zone: The remaining portion of Pennsylvania.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York State line along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to the Canadian border.

Interior Zone: That portion of Vermont west of the Lake Champlain Zone and eastward of a line extending from the Massachusetts State line at Interstate 91; north along Interstate 91 to U.S. 2; east along U.S. 2 to VT 102; north along VT 102 to VT 253; north along VT 253 to the Canadian border.

Connecticut River Zone: The remaining portion of Vermont east of the Interior Zone.

West Virginia

Zone 1: That portion outside the boundaries in Zone 2.

Zone 2 (Allegheny Mountain Upland): That area bounded by a line extending south along U.S. 220 through Keyser to U.S. 50; U.S. 50 to WV 93; WV 93 south to WV 42; WV 42 south to Petersburg; WV 28 south to Minnehaha Springs; WV 39 west to U.S. 219; U.S. 219 south to I–64; I–64 west to U.S. 60; U.S. 60 west to U.S. 19; U.S. 19 north to I–79, I–79 north to I–68; I–68 east to the Maryland State line; and along the State line to the point of beginning.

Mississippi Flyway

Alabama

South Zone: Mobile and Baldwin Counties.

North Zone: The remainder of Alabama.

Illinois

North Zone: That portion of the State north of a line extending west from the Indiana border along Peotone-Beecher Road to Illinois Route 50, south along Illinois Route 50 to Wilmington-Peotone Road, west along Wilmington-Peotone Road to Illinois Route 53, north along Illinois Route 53 to New River Road, northwest along New River Road to Interstate Highway 55, south along I–55 to Pine Bluff-Lorenzo Road, west along Pine Bluff-Lorenzo Road to Illinois Route 47, north along Illinois Route 47 to I–80, west along I–80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Zone to a line extending west from the Indiana border along Interstate Highway 70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 156, west along Illinois Route 156 to A Road, north and west on A Road to Levee Road, north on Levee Road to the south shore of New Fountain Creek, west along the south shore of New Fountain Creek to the Mississippi River, and due west across the Mississippi River to the Missouri border.

South Zone: The remainder of Illinois.

Indiana

North Zone: That portion of the State north of a line extending east from the Illinois State line along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio State line.

Ohio River Zone: That portion of the State south of a line extending east from the Illinois State line along Interstate Highway 64 to New Albany, east along State Road 62 to State Road 56, east along State Road 56 to Vevay, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio State line.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State Highway 37, southeast along State Highway 37 to State Highway 183, northeast along State Highway 183 to State Highway 141, east

along State Highway 141 to U.S. Highway 30, then east along U.S. Highway 30 to the Illinois border.

South Zone: The remainder of Iowa.

Kentucky

West Zone: All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

East Zone: The remainder of Kentucky.

Louisiana

West Zone: That portion of the State west and south of a line extending south from the Arkansas State line along Louisiana Highway 3 to Bossier City, east along Interstate Highway 20 to Minden, south along Louisiana 7 to Ringgold, east along Louisiana 4 to Jonesboro, south along U.S. Highway 167 to Lafayette, southeast along U.S. 90 to the Mississippi State line.

East Zone: The remainder of Louisiana.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin State line in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, easterly along U.S. 10 BR to U.S. 10, easterly along U.S. 10 to Interstate Highway 75/U.S. Highway 23, northerly along I–75/U.S. 23 to the U.S. 23 exit at Standish, easterly along U.S. 23 to the centerline of the Au Gres River, then southerly along the centerline of the Au Gres River to Saginaw Bay, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canadian border.

South Zone: The remainder of Michigan.

Minnesota

North Duck Zone: That portion of the State north of a line extending east from the North Dakota State line along State Highway 210 to State Highway 23, east along State Highway 23 to State Highway 39, then east along State Highway 39 to the Wisconsin State line at the Oliver Bridge.

South Duck Zone: The remainder of Minnesota.

Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois State line (Lock and Dam 25) on Lincoln County Highway N to Missouri Highway 79; south on Missouri Highway 79 to Missouri Highway 47; west on Missouri Highway 47 to Interstate 70; west on Interstate 70 to the Kansas State line.

South Zone: That portion of Missouri south of a line running west from the Illinois State line on Missouri Highway 34 to Interstate 55; south on Interstate 55 to U.S. Highway 62; west on U.S. Highway 62 to Missouri Highway 53; north on Missouri Highway 53 to Missouri Highway 51; north on Missouri Highway 51 to U.S. Highway 60; west on U.S. Highway 60 to Missouri Highway 21; north on Missouri Highway 21 to Missouri Highway 72; west on Missouri Highway 72 to Missouri Highway 32; west on Missouri Highway 32 to U.S. Highway 65; north on U.S. Highway 65 to U.S. Highway 54; west on U.S. Highway 54 to the Kansas State line.

Middle Zone: The remainder of Missouri.

Ohio

North Zone: That portion of the State north of a line extending east from the Indiana State line along U.S. Highway 33 to State Route 127, south along SR 127 to SR 703, south along SR 703 to SR 219, east along SR 219 to SR 364, north along SR 364 to SR 703, east along SR 703 to SR 66, north along SR 66 to U.S. 33, east along U.S. 33 to SR 385, east along SR 385 to SR 117, south along SR 117 to SR 273, east along SR 273 to SR 31, south along SR 31 to SR 739, east along SR 739 to SR 4, north along SR 4 to SR 95, east along SR 95 to SR 13, southeast along SR 13 to SR 3, northeast along SR 3 to SR 60, north along SR 60 to U.S. 30, east along U.S. 30 to SR 3, south along SR 3 to SR 226, south along SR 226 to SR 514, southwest along SR 514 to SR 754, south along SR 754 to SR 39/60, east along SR 39/60 to SR 241, north along SR 241 to U.S. 30, east along U.S. 30 to SR 39, east along SR 39 to the Pennsylvania State line.

South Zone: The remainder of Ohio.

Tennessee

Reelfoot Zone: All or portions of Lake and Obion Counties.

State Zone: The remainder of Tennessee.

Wisconsin

North Zone: That portion of the State north of a line extending east from the Minnesota State line along U.S. Highway 10 to U.S. Highway 41, then north on U.S. Highway 41 to the Michigan State line.

South Zone: The remainder of Wisconsin.

Central Flyway

Colorado (Central Flyway Portion)

Eastern Plains Zone: That portion of the State east of Interstate 25, and all of El Paso, Pueblo, Heurfano, and Las Animas Counties.

Mountain/Foothills Zone: That portion of the State west of Interstate 25 and east of the Continental Divide, except El Paso, Pueblo, Heurfano, and Las Animas Counties.

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That area of Kansas east of U.S. 283, and generally west of a line beginning at the Junction of the Nebraska border and KS 28; south on KS 28 to U.S. 36; east on U.S. 36 to KS 199; south on KS 199 to Republic Co. Road 563; south on Republic Co. Road 563 to KS 148; east on KS 148 to Republic Co. Road 138; south on Republic Co. Road 138 to Cloud Co. Road 765; south on Cloud Co. Road 765 to KS 9; west on KS 9 to U.S. 24; west on U.S. 24 to U.S. 281; north on U.S. 281 to U.S. 36; west on U.S. 36 to U.S. 183; south on U.S. 183 to U.S. 24; west on U.S. 24 to KS 18; southeast on KS 18 to U.S. 183; south on U.S. 183 to KS 4; east on KS 4 to I–135; south on I–135 to KS 61; southwest on KS 61 to KS 96; northwest on KS 96 to U.S. 56; southwest on U.S. 56 to KS 19; east on KS 19 to U.S. 281; south on U.S. 281 to U.S. 54; west on U.S. 54 to U.S. 183; north on U.S. 183 to U.S. 56; southwest on U.S. 56 to Ford Co. Road 126; south on Ford Co. Road 126 to U.S. 400; northwest on U.S. 400 to U.S. 283.

Low Plains Late Zone: The remainder of Kansas.

Montana (Central Flyway Portion)

Zone 1: The Counties of Blaine, Carbon, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, Wibaux, and Yellowstone.

Zone 2: The remainder of Montana.

Nebraska

High Plains Zone: That portion of Nebraska lying west of a line beginning at the South Dakota-Nebraska border on U.S. 183, south on U.S. 183 to U.S. 20, west on U.S. 20 to NE 7, south on NE 7 to NE 91, southwest on NE 91 to NE 2, southeast on NE 2 to NE 92, west on

NE 92 to NE 40, south on NE 40 to NE 47, south on NE 47 to NE 23, east on NE 23 to U.S. 283 and south on U.S. 283 to the Kansas-Nebraska border.

Low Plains Zone 1: That portion of Dixon County west of NE 26E Spur and north of NE 12; those portions of Cedar County north of NE 12; those portions of Knox County north of NE 12 to intersection of Niobrara River; all of Boyd County; Keya Paha County east of U.S. 183. Both banks of the Niobrara River in Keya Paha, Boyd, and Knox Counties east of U.S. 183 shall be included in Zone 1.

Low Plains Zone 2: Area bounded by designated Federal and State highways and political boundaries beginning at the Kansas-Nebraska border on U.S. 75 to U.S. 136; east to the intersection of U.S. 136 and the Steamboat Trace (Trace); north along the Trace to the intersection with Federal Levee R–562; north along Federal Levee R–562 to the intersection with the Trace; north along the Trace/Burlington Northern Railroad right-of-way to NE 2; west to U.S. 75; north to NE 2; west to NE 43; north to U.S. 34; east to NE 63; north and west to U.S. 77; north to NE 92; west to U.S. 81; south to NE 66; west to NE 14; south to County Road 22 (Hamilton County); west to County Road M; south to County Road 21; west to County Road K; south U.S. 34; west to NE 2; south to U.S. I–80; west to Gunbarrel Road (Hall/Hamilton county line); south to Giltner Road; west to U.S. 281; south to U.S. 34; west to NE 10; north to County Road ''R'' (Kearney County) and County Road #742 (Phelps County); west to County Road #438 (Gosper County line); south along County Road #438 (Gosper County line) to County Road #726 (Furnas County line); east to County Road #438 (Harlan County line); south to U.S. 34; south and west to U.S. 136; east to NE 14; south to the Kansas-Nebraska border; west to U.S. 283; north to NE 23; west to NE 47; north to U.S. 30; east to NE 14; north to NE 52; west and north to NE 91 to U.S. 281; south to NE 22; west to NE 11; northwest to NE 91; west to Loup County Line; north to Loup-Brown County line; east along northern boundaries of Loup, Garfield, and Wheeler Counties; south on the Wheeler-Antelope county line to NE 70; east to NE 14; south to NE 39; southeast to NE 22; east to U.S. 81; southeast to U.S. 30; east to U.S. 75; north to the Washington County line; east to the Iowa-Nebraska border; south along the Iowa-Nebraska border; to the beginning at U.S. 75 and the Kansas-Nebraska border.

Low Plains Zone 3: The area east of the High Plains Zone, excluding Low Plains Zone 1, north of Low Plains Zone 2.

Low Plains Zone 4: The area east of the High Plains Zone and south of Zone 2.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

North Dakota

High Plains Unit: That portion of the State south and west of a line from the South Dakota State line along U.S. 83 and I–94 to ND 41, north to U.S. 2, west to the Williams/Divide County line, then north along the County line to the Canadian border.

Low Plains Unit: The remainder of North Dakota.

Oklahoma

High Plains Zone: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north of a line extending east from the Texas State line along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S. 183 to I–40, east along I–40 to U.S. 177, north along U.S. 177 to OK 33, east along OK 33 to OK 18, north along OK 18 to OK 51, west along OK 51 to I–35, north along I–35 to U.S. 412, west along U.S. 412 to OK 132, then north along OK 132 to the Kansas State line.

Low Plains Zone 2: The remainder of Oklahoma.

South Dakota

High Plains Zone: That portion of the State west of a line beginning at the North Dakota State line and extending south along U.S. 83 to U.S. 14, east on U.S. 14 to Blunt, south on the Blunt-Canning road to SD 34, east and south on SD 34 to SD 50 at Lee's Corner, south on SD 50 to I–90, east on I–90 to SD 50, south on SD 50 to SD 44, west on SD 44 across the Platte-Winner bridge to SD 47, south on SD 47 to U.S. 18, east on U.S. 18 to SD 47, south on SD 47 to the Nebraska State line.

North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along U.S. 212 to the Minnesota State line.

South Zone: That portion of Gregory County east of SD 47 and south of SD 44; Charles Mix County south of SD 44 to the Douglas County line; south on SD 50 to Geddes; east on the Geddes Highway to U.S. 281; south on U.S. 281 and U.S. 18 to SD 50; south and east on SD 50 to the Bon Homme County line; the Counties of Bon Homme, Yankton, and Clay south of SD 50; and Union County south and west of SD 50 and I–29.

Middle Zone: The remainder of South Dakota.

Texas

High Plains Zone: That portion of the State west of a line extending south from the Oklahoma State line along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

Low Plains North Zone: That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I–10 to the Louisiana State line at Orange, Texas.

Low Plains South Zone: The remainder of Texas.

Wyoming (Central Flyway portion)

Zone 1: The Counties of Converse, Goshen, Hot Springs, Natrona, Platte, and Washakie; and the portion of Park County east of the Shoshone National Forest boundary and south of a line beginning where the Shoshone National Forest boundary meets Park County Road 8VC, east along Park County Road 8VC to Park County Road 1AB, continuing east along Park County Road 1AB to Wyoming Highway 120, north along WY Highway 120 to WY Highway 294, south along WY Highway 294 to Lane 9, east along Lane 9 to Powel and WY Highway 14A, and finally east along WY Highway 14A to the Park County and Big Horn County line.

Zone 2: The remainder of Wyoming.

Pacific Flyway

Arizona

Game Management Units (GMUs) as follows:

South Zone: Those portions of GMUs 6 and 8 in Yavapai County, and GMUs 10 and 12B–45.

North Zone: GMUs 1–5, those portions of GMUs 6 and 8 within Coconino County, and GMUs 7, 9, 12A.

California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with

Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to Main Street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada-Oregon State lines; west along the California-Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada State line south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada State line.

Southern San Joaquin Valley Temporary Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and Colorado River Zones, and the Southern San Joaquin Valley Temporary Zone.

Idaho

Zone 1: Includes all lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County east of ID 37 and ID 39.

Zone 2: Includes the following Counties or portions of Counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; Blaine; Bonner; Bonneville; Boundary; Butte; Camas; Caribou except the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties.

Zone 3: Includes the following Counties or portions of Counties: Ada; Boise; Canyon; Cassia except within the Minidoka National Wildlife Refuge; Elmore except the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of ID 37 and ID 39 except that portion within the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties.

Nevada

Lincoln and Clark County Zone: All of Clark and Lincoln Counties.

Remainder-of-the-State Zone: The remainder of Nevada.

Oregon

Zone 1: Clatsop, Tillamook, Lincoln, Lane, Douglas, Coos, Curry, Josephine, Jackson, Linn, Benton, Polk, Marion, Yamhill, Washington, Columbia, Multnomah, Clackamas, Hood River, Wasco, Sherman, Gilliam, Morrow and Umatilla Counties.

Columbia Basin Mallard Management Unit: Gilliam, Morrow, and Umatilla Counties.

Zone 2: The remainder of the State.

Utah

Zone 1: All of Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Unitah, Utah, Wasatch, and Weber Counties, and that part of Toole County north of I–80.

Zone 2: The remainder of Utah.

Washington

East Zone: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Columbia Basin Mallard Management Unit: Same as East Zone.

West Zone: All areas to the west of the East Zone.

Wyoming

Snake River Zone: Beginning at the south boundary of Yellowstone National Park and the Continental Divide; south along the Continental Divide to Union Pass and the Union Pass Road (U.S.F.S. Road 600); west and south along the Union Pass Road to U.S.F.S. Road 605; south along U.S.F.S. Road 605 to the Bridger-Teton National Forest boundary; along the national forest boundary to the Idaho State line; north along the Idaho State line to the south boundary of Yellowstone National Park; east along the Yellowstone National Park boundary to the Continental Divide.

Balance of Flyway Zone: Balance of the Pacific Flyway in Wyoming outside the Snake River Zone.

Geese

Atlantic Flyway

Connecticut

AP Unit: Litchfield County and the portion of Hartford County west of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with Route 91 in Hartford, and then extending south along Route 91 to its intersection with the Hartford/Middlesex County line.

AFRP Unit: Starting at the intersection of I–95 and the Quinnipiac River, north on the Quinnipiac River to its intersection with I–91, north on I–91 to I–691, west on I–691 to the Hartford County line, and encompassing the rest of New Haven County and Fairfield County in its entirety.

NAP H-Unit: All of the rest of the State not included in the AP or AFRP descriptions above.

South Zone: Same as for ducks.

North Zone: Same as for ducks.

Maryland

Resident Population (RP) Zone: Garrett, Allegany, Washington, Frederick, and Montgomery Counties; that portion of Prince George's County west of Route 3 and Route 301; that portion of Charles County west of Route 301 to the Virginia State line; and that portion of Carroll County west of Route 31 to the intersection of Route 97, and west of Route 97 to the Pennsylvania line.

AP Zone: Remainder of the State.

Massachusetts

NAP Zone: Central and Coastal Zones (see duck zones).

AP Zone: The Western Zone (see duck zones).

Special Late Season Area: The Central Zone and that portion of the Coastal Zone (see duck zones) that lies north of the Cape Cod Canal, north to the New Hampshire line.

New Hampshire

Same zones as for ducks.

New Jersey

North: That portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94: then west along Route 94 to the tollbridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point.

South: That portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to Route 70; then west along Route 70 to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then east along Route 49 to Route 555; then south along Route 555 to Route 553; then east along Route 553 to Route 649; then north along Route 649 to Route 670; then east along Route 670 to Route 47; then north along Route 47 to Route 548; then east along Route 548 to Route 49; then east along Route 49 to Route 50; then south along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

New York

Lake Champlain Goose Area: That area of New York State lying east and north of a continuous line extending along Route 11 from the New York-Canada International boundary south to Route 9B, south along Route 9B to Route 9, south along Route 9 to Route 22 south of Keeseville, south along Route 22 to the west shore of South Bay along and around the shoreline of South Bay to Route 22 on the east shore of South Bay, southeast along Route 22 to Route 4, northeast along Route 4 to the New York-Vermont boundary.

Northeast Goose Area: The same as the Northeastern Waterfowl Hunting Zone, which is that area of New York State lying north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to Interstate 81, south along Interstate Route 81 to Route 31, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Interstate Route 87, north along Interstate Route 87 to Route 9 (at Exit 20), north along Route 9 to Route 149, east along Route 149 to Route 4, north along Route 4 to the New York-Vermont boundary, exclusive of the Lake Champlain Zone.

East Central Goose Area: That area of New York State lying inside of a continuous line extending from Interstate Route 81 in Cicero, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, west along Route 146 to Albany County Route 252, northwest along Route 252 to Schenectady County Route 131, north along Route 131 to Route 7, west along Route 7 to Route 10 at Richmondville, south on Route 10 to Route 23 at Stamford, west along Route 23 to the south bank of the Susquehanna River, southwest along the south bank of the Susquehanna River to Interstate Route 88 near Harpursville, west along Route 88 to Route 79, northwest along Route 79 to Route 26 in Whitney Point, southwest along Route 26 to Interstate Route 81, north along Route 81 to the point of beginning.

West Central Goose Area: That area of New York State lying within a continuous line beginning at the point where the northerly extension of Route 269 (County Line Road on the Niagara-Orleans County boundary) meets the International boundary with Canada, south to the shore of Lake Ontario at the eastern boundary of Golden Hill State Park, south along the extension of Route 269 and Route 269 to Route 104 at Jeddo, west along Route 104 to Niagara County Route 271, south along Route 271 to Route 31E at Middleport, south along Route 31E to Route 31, west along Route 31 to Griswold Street, south along Griswold Street to Ditch Road, south along Ditch Road to Foot Road, south along Foot Road to the north bank of Tonawanda Creek, west along the north bank of Tonawanda Creek to Route 93, south along Route 93 to Route 5, east along Route 5 to Crittenden-Murrays Corners Road, south on Crittenden-Murrays Corners Road to the NYS Thruway, east along the Thruway 90 to Route 98 (at Thruway Exit 48) in Batavia, south along Route 98 to Route 20, east along Route 20 to Route 19 in Pavilion Center, south along Route 19 to Route 63, southeast along Route 63 to Route 246, south along Route 246 to Route 39 in Perry, northeast along Route 39 to Route 20A, northeast along Route 20A to Route 20, east along Route 20 to Route 364 (near Canandaigua), south and east along Route 364 to Yates County Route 18 (Italy Valley Road), southwest along Route 18 to Yates County Route 34, east along Route 34 to Yates County Route 32, south along Route 32 to Steuben County Route 122, south along Route 122 to Route 53, south along Route 53 to Steuben County Route 74, east along Route 74 to Route 54A (near Pulteney), south along Route 54A to Steuben County Route 87, east along Route 87 to Steuben County Route 96, east along Route 96 to Steuben County Route 114, east along Route 114 to Schuyler County Route 23, east and southeast along Route 23 to Schuyler County Route 28, southeast along Route 28 to Route 409 at Watkins Glen, south along Route 409 to Route 14, south along Route 14 to Route 224 at Montour Falls, east along Route 224 to Route 228 in Odessa, north along Route 228 to Route 79 in Mecklenburg, east along Route 79 to Route 366 in Ithaca, northeast along Route 366 to Route 13, northeast along Route 13 to Interstate Route 81 in Cortland, north along Route 81 to the north shore of the Salmon River to shore of Lake Ontario, extending generally northwest in a straight line to the nearest point of the International boundary with Canada, south and west along the International boundary to the point of beginning.

Hudson Valley Goose Area: That area of New York State lying within a continuous line extending from Route 4 at the New York-Vermont boundary, west and south along Route 4 to Route 149 at Fort Ann, west on Route 149 to Route 9, south along Route 9 to Interstate Route 87 (at Exit 20 in Glens Falls), south along Route 87 to Route 29, west along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, southeast along Route 146 to Main Street in Altamont, west along Main Street to Route 156, southeast along Route 156 to Albany County Route 307, southeast along Route 307 to Route 85A, southwest along Route 85A to Route 85, south along Route 85 to Route 443, southeast along Route 443 to Albany County Route 301 at Clarksville, southeast along Route 301 to Route 32, south along Route 32 to Route 23 at Cairo, west along Route 23 to Joseph Chadderdon Road, southeast along Joseph Chadderdon Road to Hearts Content Road (Greene County Route 31), southeast along Route 31 to Route 32, south along Route 32 to Greene County Route 23A, east along Route 23A to Interstate Route 87 (the NYS Thruway), south along Route 87 to Route 28 (Exit 19) near Kingston, northwest on Route 28 to Route 209, southwest on Route 209 to the New York-Pennsylvania boundary, southeast along the New York-Pennsylvania boundary to the New York-New Jersey boundary, southeast along the New York-New Jersey boundary to Route 210 near Greenwood Lake, northeast along Route 210 to Orange County Route 5, northeast along Orange County Route 5 to Route 105 in the Village of Monroe, east and north along Route 105 to Route 32, northeast along Route 32 to Orange County Route 107 (Quaker Avenue), east along Route 107 to Route 9W, north along Route 9W to the south bank of Moodna Creek, southeast along the south bank of Moodna Creek to the New Windsor-Cornwall town boundary, northeast along the New Windsor-Cornwall town boundary to the Orange-Dutchess County boundary (middle of the Hudson River), north along the county boundary to Interstate Route 84, east along Route 84 to the Dutchess-Putnam County boundary, east along the county boundary to the New York-Connecticut boundary, north along the New York-Connecticut boundary to the New York-Massachusetts boundary, north along the New York-Massachusetts boundary to the New York-Vermont boundary, north to the point of beginning.

Eastern Long Island Goose Area (NAP High Harvest Area): That area of Suffolk County lying east of a continuous line extending due south from the New York-Connecticut boundary to the northernmost end of Roanoke Avenue in the Town of Riverhead; then south on Roanoke Avenue (which becomes County Route 73) to State Route 25; then west on Route 25 to Peconic Avenue; then south on Peconic Avenue to County Route (CR) 104 (Riverleigh Avenue); then south on CR 104 to CR 31 (Old Riverhead Road); then south on CR 31 to Oak Street; then south on Oak Street to Potunk Lane; then west on Stevens Lane; then south on Jessup Avenue (in Westhampton Beach) to Dune Road (CR 89); then due south to international waters.

Western Long Island Goose Area (RP Area): That area of Westchester County and its tidal waters southeast of Interstate Route 95 and that area of Nassau and Suffolk Counties lying west of a continuous line extending due south from the New York-Connecticut boundary to the northernmost end of the Sunken Meadow State Parkway; then south on the Sunken Meadow Parkway to the Sagtikos State Parkway; then south on the Sagtikos Parkway to the Robert Moses State Parkway; then south on the Robert Moses Parkway to its southernmost end; then due south to international waters.

Central Long Island Goose Area (NAP Low Harvest Area): That area of Suffolk County lying between the Western and Eastern Long Island Goose Areas, as defined above.

South Goose Area: The remainder of New York State, excluding New York City.

Special Late Canada Goose Area: That area of the Central Long Island Goose Area lying north of State Route 25A and west of a continuous line extending northward from State Route 25A along Randall Road (near Shoreham) to North Country Road, then east to Sound Road and then north to Long Island Sound and then due north to the New York-Connecticut boundary.

North Carolina

SJBP Hunty Zone: Includes the following Counties or portions of Counties: Anson, Cabarrus, Chatham, Davidson, Durham, Halifax (that portion east of NC 903), Montgomery (that portion west of NC 109), Northampton, Richmond (that portion south of NC 73 and west of U.S. 220 and north of U.S. 74), Rowan, Stanly, Union, and Wake.

RP Hunt Zone: Includes the following Counties or portions of Counties: Alamance, Alleghany, Alexander, Ashe, Avery, Beaufort, Bertie (that portion south and west of a line formed by NC 45 at the Washington Co. line to U.S. 17 in Midway, U.S. 17 in Midway to U.S. 13 in Windsor, U.S. 13 in Windsor to the Hertford Co. line), Bladen, Brunswick, Buncombe, Burke, Caldwell, Carteret, Caswell, Catawba, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Davie, Duplin, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Granville, Greene, Guilford, Halifax (that portion west of NC 903), Harnett, Haywood, Henderson, Hertford, Hoke, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, McDowell, Macon, Madison, Martin, Mecklenburg, Mitchell, Montgomery (that portion that is east of NC 109), Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pender, Person, Pitt, Polk, Randolph, Richmond (all of the county with exception of that portion that is south of NC 73 and west of U.S. 220 and north of U.S. 74), Robeson, Rockingham, Rutherford, Sampson, Scotland, Stokes, Surry, Swain, Transylvania, Vance, Warren, Watauga, Wayne, Wilkes, Wilson, Yadkin, and Yancey.

Northeast Hunt Unit: Includes the following Counties or portions of Counties: Bertie (that portion north and east of a line formed by NC 45 at the Washington County line to U.S. 17 in Midway, U.S. 17 in Midway to U.S. 13 in Windsor, U.S. 13 in Windsor to the Hertford Co. line), Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

Pennsylvania

Resident Canada Goose Zone: All of Pennsylvania except for SJBP Zone and the area east of route SR 97 from the Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, and south of I–80 to the New Jersey State line.

SJBP Zone: The area north of I–80 and west of I–79 including in the city of Erie

west of Bay Front Parkway to and including the Lake Erie Duck zone (Lake Erie, Presque Isle, and the area within 150 yards of the Lake Erie Shoreline).

AP Zone: The area east of route SR 97 from Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, south of I–80 to New Jersey State line.

Rhode Island

Special Area for Canada Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

South Carolina

Canada Goose Area: Statewide except for Clarendon County, that portion of Orangeburg County north of SC Highway 6, and that portion of Berkeley County north of SC Highway 45 from the Orangeburg County line to the junction of SC Highway 45 and State Road S–8–31 and that portion west of the Santee Dam.

Vermont

Same zones as for ducks.

Virginia

AP Zone: The area east and south of the following line—the Stafford County line from the Potomac River west to Interstate 95 at Fredericksburg, then south along Interstate 95 to Petersburg, then Route 460 (SE) to City of Suffolk, then south along Route 32 to the North Carolina line.

SJBP Zone: The area to the west of the AP Zone boundary *and* east of the following line: the ''Blue Ridge'' (mountain spine) at the West Virginia-Virginia Border (Loudoun County-Clarke County line) south to Interstate 64 (the Blue Ridge line follows county borders along the western edge of Loudoun-Fauquier-Rappahannock-Madison-Greene-Albemarle and into Nelson Counties), then east along Interstate Rt. 64 to Route 15, then south along Rt. 15 to the North Carolina line.

RP Zone: The remainder of the State west of the SJBP Zone.

Back Bay Area: The waters of Back Bay and its tributaries and the marshes adjacent thereto, and on the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and on and along the shore of North Landing River and the marshes adjacent thereto, and on and along the shores of Binson Inlet Lake (formerly known as Lake Tecumseh) and Red Wing Lake and the marshes adjacent thereto.

West Virginia

Same zones as for ducks.

Mississippi Flyway

Alabama

Same zones as for ducks, but in addition:

SJBP Zone: That portion of Morgan County east of U.S. Highway 31, north of State Highway 36, and west of U.S. 231; that portion of Limestone County south of U.S. 72; and that portion of Madison County south of Swancott Road and west of Triana Road.

Arkansas

Northwest Zone: Baxter, Benton, Boone, Carroll, Conway, Crawford, Faulkner, Franklin, Johnson, Logan, Madison, Marion, Newton, Perry, Pope, Pulaski, Searcy, Sebastian, Scott, Van Buren, Washington, and Yell Counties.

Illinois

Same zones as for ducks.

Indiana

Same zones as for ducks but in addition:

Special Canada Goose Seasons

Indiana Late Canada Goose Season Zone: That part of the state encompassed by the following Counties: Steuben, Lagrange, Elkhart, St. Joseph, La Porte, Starke, Marshall, Kosciusko, Noble, De Kalb, Allen, Whitley, Huntington, Wells, Adams, Boone, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, Johnson, Shelby, Vermillion, Parke, Vigo, Clay, Sullivan, and Greene.

Iowa

North Zone: That portion of the State north of U.S. Highway 20.

South Zone: The remainder of Iowa.

Kentucky

Western Zone: That portion of the State west of a line beginning at the Tennessee State line at Fulton and extending north along the Purchase Parkway to Interstate Highway 24, east along I–24 to U.S. Highway 641, north along U.S. 641 to U.S. 60, northeast along U.S. 60 to the Henderson County line, then south, east, and northerly along the Henderson County line to the Indiana State line.

Ballard Reporting Area: That area encompassed by a line beginning at the northwest city limits of Wickliffe in Ballard County and extending westward to the middle of the Mississippi River, north along the Mississippi River and along the low-water mark of the Ohio River on the Illinois shore to the Ballard-McCracken County line, south along the county line to Kentucky Highway 358, south along Kentucky 358 to U.S. Highway 60 at LaCenter, then southwest along U.S. 60 to the northeast city limits of Wickliffe.

Henderson-Union Reporting Area: Henderson County and that portion of Union County within the Western Zone.

Pennyroyal/Coalfield Zone: Butler, Daviess, Ohio, Simpson, and Warren Counties and all counties lying west to the boundary of the Western Goose Zone.

Michigan

(a) North Zone—Same as North duck zone.

(b) Middle Zone—Same as Middle duck zone.

(c) South Zone—Same as South duck zone.

Tuscola/Huron Goose Management Unit (GMU): Those portions of Tuscola and Huron Counties bounded on the south by Michigan Highway 138 and Bay City Road, on the east by Colwood and Bay Port Roads, on the north by Kilmanagh Road and a line extending directly west off the end of Kilmanagh Road into Saginaw Bay to the west boundary, and on the west by the Tuscola-Bay County line and a line extending directly north off the end of the Tuscola-Bay County line into Saginaw Bay to the north boundary.

Allegan County GMU: That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly along 46th Street to 109th Avenue, westerly along 109th Avenue to I–196 in Casco Township, then northerly along I–196 to the point of beginning.

Saginaw County GMU: That portion of Saginaw County bounded by Michigan Highway 46 on the north; Michigan 52 on the west; Michigan 57 on the south; and Michigan 13 on the east.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Special Canada Goose Seasons

Southern Michigan Late Season Canada Goose Zone: Same as the South Duck Zone excluding Tuscola/Huron Goose Management Unit (GMU), Allegan County GMU, Saginaw County GMU, and Muskegon Wastewater GMU.

Minnesota

West Zone: That portion of the State encompassed by a line beginning at the junction of State Trunk Highway (STH) 60 and the Iowa State line, then north and east along STH 60 to U.S. Highway 71, north along U.S. 71 to Interstate Highway 94, then north and west along I–94 to the North Dakota State line.

West Central Zone: That area encompassed by a line beginning at the intersection of State Trunk Highway (STH) 29 and U.S. Highway 212 and extending west along U.S. 212 to U.S. 59, south along U.S. 59 to STH 67, west along STH 67 to U.S. 75, north along U.S. 75 to County State Aid Highway (CSAH) 30 in Lac qui Parle County, west along CSAH 30 to the western boundary of the State, north along the western boundary of the State to a point due south of the intersection of STH 7 and CSAH 7 in Big Stone County, and continuing due north to said intersection, then north along CSAH 7 to CSAH 6 in Big Stone County, east along CSAH 6 to CSAH 21 in Big Stone County, south along CSAH 21 to CSAH 10 in Big Stone County, east along CSAH 10 to CSAH 22 in Swift County, east along CSAH 22 to CSAH 5 in Swift County, south along CSAH 5 to U.S. 12, east along U.S. 12 to CSAH 17 in Swift County, south along CSAH 17 to CSAH 9 in Chippewa County, south along CSAH 9 to STH 40, east along STH 40 to STH 29, then south along STH 29 to the point of beginning.

Special Canada Goose Seasons

Southeast Zone: That part of the State within the following described boundaries: Beginning at the intersection of U.S. Highway 52 and the south boundary of the Twin Cities Metro Canada Goose Zone; thence along the U.S. Highway 52 to State Trunk Highway (STH) 57; thence along STH 57 to the municipal boundary of Kasson; thence along the municipal boundary of Kasson County State Aid Highway (CSAH) 13, Dodge County; thence along CSAH 13 to STH 30; thence along STH 30 to U.S. Highway 63; thence along U.S. Highway 63 to the south boundary of the State; thence along the south and east boundaries of the State to the south boundary of the Twin Cities Metro Canada Goose Zone; thence along said boundary to the point of beginning.

Missouri

Same zones as for ducks but in addition:

Middle Zone

Southeast Zone: That portion of the State encompassed by a line beginning at the intersection of Missouri Highway (MO) 34 and Interstate 55 and extending south along I–55 to U.S. Highway 62, west along U.S. 62 to MO 53, north along MO 53 to MO 51, north along MO 51 to U.S. 60, west along U.S. 60 to MO 21, north along MO 21 to MO 72, east along MO 72 to MO 34, then east along MO 34 to I–55.

Ohio

Same zones as for ducks but in addition:

North Zone

Lake Erie Zone: That portion of the North Duck Zone encompassed by and north and east of a line beginning in Lucas County at the Michigan State line on I–75, and extending south along I–75 to I–280, south along I–280 to I–80, and east along I-80 to the Pennsylvania State line in Trumbull County.

Tennessee

Southwest Zone: That portion of the State south of State Highways 20 and 104, and west of U.S. Highways 45 and 45W.

Northwest Zone: Lake, Obion, and Weakley Counties and those portions of Gibson and Dyer Counties not included in the Southwest Tennessee Zone.

Kentucky/Barkley Lakes Zone: That portion of the State bounded on the west by the eastern boundaries of the Northwest and Southwest Zones and on the east by State Highway 13 from the Alabama State line to Clarksville and U.S. Highway 79 from Clarksville to the Kentucky State line.

Wisconsin

Same zones as for ducks but in addition:

Horicon Zone: That area encompassed by a line beginning at the intersection of State Highway 21 and the Fox River in Winnebago County and extending westerly along State 21 to the west boundary of Winnebago County, southerly along the west boundary of Winnebago County to the north boundary of Green Lake County, westerly along the north boundaries of Green Lake and Marquette Counties to State 22, southerly along State 22 to State 33, westerly along State 33 to Interstate Highway 39, southerly along Interstate Highway 39 to Interstate Highway 90/94, southerly along I–90/94 to State 60, easterly along State 60 to State 83, northerly along State 83 to State 175, northerly along State 175 to State 33, easterly along State 33 to U.S. Highway 45, northerly along U.S. 45 to the east shore of the Fond Du Lac River, northerly along the east shore of the Fond Du Lac River to Lake Winnebago, northerly along the western shoreline of Lake Winnebago to the Fox River, then westerly along the Fox River to State 21.

Collins Zone: That area encompassed by a line beginning at the intersection of Hilltop Road and Collins Marsh Road in Manitowoc County and extending westerly along Hilltop Road to Humpty Dumpty Road, southerly along Humpty Dumpty Road to Poplar Grove Road, easterly along Poplar Grove Road to Rockea Road, southerly along Rockea Road to County Highway JJ, southeasterly along County JJ to Collins Road, southerly along Collins Road to the Manitowoc River, southeasterly along the Manitowoc River to Quarry Road, northerly along Quarry Road to Einberger Road, northerly along Einberger Road to Moschel Road, westerly along Moschel Road to Collins Marsh Road, northerly along Collins Marsh Road to Hilltop Road.

Exterior Zone: That portion of the State not included in the Horicon or Collins Zones.

Mississippi River Subzone: That area encompassed by a line beginning at the intersection of the Burlington Northern & Santa Fe Railway and the Illinois State line in Grant County and extending northerly along the Burlington Northern & Santa Fe Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota State line.

Rock Prairie Subzone: That area encompassed by a line beginning at the intersection of the Illinois State line and Interstate Highway 90 and extending north along I–90 to County Highway A, east along County A to U.S. Highway 12, southeast along U.S. 12 to State Highway 50, west along State 50 to State 120, then south along 120 to the Illinois State line.

Brown County Subzone: That area encompassed by a line beginning at the intersection of the Fox River with Green Bay in Brown County and extending southerly along the Fox River to State Highway 29, northwesterly along State 29 to the Brown County line, south, east, and north along the Brown County line to Green Bay, due west to the midpoint of the Green Bay Ship Channel, then southwesterly along the Green Bay Ship Channel to the Fox River.

Central Flyway

Colorado (Central Flyway Portion)

Northern Front Range Area: All areas in Boulder, Larimer and Weld Counties from the Continental Divide east along the Wyoming border to U.S. 85, south on U.S. 85 to the Adams County line, and all lands in Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Gilpin, and Jefferson Counties.

North Park Area: Jackson County.

South Park and San Luis Valley Area: All of Alamosa, Chaffee, Conejos, Costilla, Custer, Fremont, Lake, Park, Rio Grande and Teller Counties, and those portions of Saguache, Mineral and Hinsdale Counties east of the Continental Divide.

Remainder: Remainder of the Central Flyway portion of Colorado.

Eastern Colorado Late Light Goose Area: That portion of the State east of Interstate Highway 25.

Nebraska

Dark Geese

Niobrara Unit: That area contained within and bounded by the intersection of the South Dakota State line and the Cherry County line, south along the Cherry County line to the Niobrara River, east to the Norden Road, south on the Norden Road to U.S. Hwy 20, east along U.S. Hwy 20 to NE Hwy 137, north along NE Hwy 137 to the Niobrara River, east along the Niobrara River to the Boyd County line, north along the Boyd County line to the South Dakota State line. Where the Niobrara River forms the boundary, both banks of the river are included in the Niobrara Unit.

East Unit: That area north and east of U.S. 281 at the Kansas-Nebraska State line, north to Giltner Road (near Doniphan), east to NE 14, north to NE 66, east to U.S. 81, north to NE 22, west to NE 14 north to NE 91, east to U.S. 275, south to U.S. 77, south to NE 91, east to U.S. 30, east to Nebraska-Iowa State line.

Platte River Unit: That area south and west of U.S. 281 at the Kansas-Nebraska State line, north to Giltner Road (near Doniphan), east to NE 14, north to NE 66, east to U.S. 81, north to NE 22, west to NE 14 north to NE 91, west along NE 91 to NE 11, north to the Holt County line, west along the northern border of Garfield, Loup, Blaine and Thomas Counties to the Hooker County line, south along the Thomas-Hooker County lines to the McPherson County line, east along the south border of Thomas County to the western line of Custer County, south along the Custer—Logan County line to NE 92, west to U.S. 83, north to NE 92, west to NE 61, north along NE 61 to NE 2, west along NE 2 to the corner formed by Garden-Grant-Sheridan Counties, west along the north border of Garden, Morrill, and Scotts Bluff Counties to the intersection of the Interstate Canal, west to Wyoming State line.

North-Central Unit: The remainder of the State.

Light Geese

Rainwater Basin Light Goose Area (West): The area bounded by the junction of U.S. 283 and U.S. 30 at Lexington, east on U.S. 30 to U.S. 281, south on U.S. 281 to NE 4, west on NE 4 to U.S. 34, continue west on U.S. 34 to U.S. 283, then north on U.S. 283 to the beginning.

Rainwater Basin Light Goose Area (East): The area bounded by the junction of U.S. 281 and U.S. 30 at Grand Island, north and east on U.S. 30 to NE 14, south to NE 66, east to U.S. 81, north to NE 92, east on NE 92 to NE 15, south on NE 15 to NE 4, west on NE 4 to U.S. 281, north on U.S. 281 to the beginning.

Remainder of State: The remainder portion of Nebraska.

New Mexico (Central Flyway Portion)

Dark Geese

Middle Rio Grande Valley Unit: Sierra, Socorro, and Valencia Counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

North Dakota

Missouri River Canada Goose Zone: The area within and bounded by a line starting where ND Hwy 6 crosses the South Dakota border; thence north on ND Hwy 6 to I–94; thence west on I–94 to ND Hwy 49; thence north on ND Hwy 49 to ND Hwy 200; thence north on Mercer County Rd. 21 to the section line between sections 8 and 9 (T146N–R87W); thence north on that section line to the southern shoreline to Lake Sakakawea; thence east along the southern shoreline (including Mallard Island) of Lake Sakakawea to U.S. Hwy 83; thence south on U.S. Hwy 83 to ND Hwy 200; thence east on ND Hwy 200 to ND Hwy 41; thence south on ND Hwy 41 to U.S. Hwy 83; thence south on U.S. Hwy 83 to I–94; thence east on I–94 to U.S. Hwy 83; thence south on U.S. Hwy 83 to the South Dakota border; thence west along the South Dakota border to ND Hwy 6.

Rest of State: Remainder of North Dakota.

South Dakota

Canada Geese

Unit 1: Remainder of South Dakota.

Unit 2: Bon Homme, Brule, Buffalo, Charles Mix, Custer east of SD Hwy 79 and south of French Creek, Dewey south of U.S. Hwy 212, Fall River east of SD Hwy 71 and U.S. Hwy 385, Gregory, Hughes, Hyde south of U.S. Hwy 14, Lyman, Perkins, Potter west of U.S. Hwy 83, Stanley, and Sully Counties.

Unit 3: Bennett County.

Texas

Northeast Goose Zone: That portion of Texas lying east and north of a line beginning at the Texas-Oklahoma border at U.S. 81, then continuing south to Bowie and then southeasterly along U.S. 81 and U.S. 287 to I–35W and I–35 to the juncture with I–10 in San Antonio, then east on I–10 to the Texas-Louisiana border.

Southeast Goose Zone: That portion of Texas lying east and south of a line beginning at the International Toll Bridge at Laredo, then continuing north following I–35 to the juncture with I–10 in San Antonio, then easterly along I–10 to the Texas-Louisiana border.

West Goose Zone: The remainder of the State.

Wyoming (Central Flyway Portion)

Dark Geese

Area 1: Converse, Hot Springs, Natrona, and Washakie Counties, and the portion of Park County east of the Shoshone National Forest boundary and south of a line beginning where the Shoshone National Forest boundary crosses Park County Road 8VC, easterly along said road to Park County Road 1AB, easterly along said road to Wyoming Highway 120, northerly along said highway to Wyoming Highway 294, southeasterly along said highway to Lane 9, easterly along said lane to the town of Powel and Wyoming Highway 14A, easterly along said highway to the Park County and Big Horn County Line.

Area 2: Albany, Campbell, Crook, Johnson, Laramie, Niobrara, Sheridan, and Weston Counties, and that portion of Carbon County east of the Continental Divide; that portion of Park County west of the Shoshone National Forest boundary, and that portion of Park County north of a line beginning where the Shoshone National Forest boundary crosses Park County Road 8VC, easterly along said road to Park County Road 1AB, easterly along said road to Wyoming Highway 120, northerly along said highway to Wyoming Highway 294, southeasterly along said highway to Lane 9, easterly along said lane to the town of Powel and Wyoming Highway 14A, easterly along said highway to the Park County and Big Horn County Line.

Area 3: Goshen and Platte Counties.

Area 4: Big Horn and Fremont Counties.

Pacific Flyway

Arizona

North Zone: Game Management Units 1–5, those portions of Game Management Units 6 and 8 within Coconino County, and Game Management Units 7, 9, and 12A.

South Zone: Those portions of Game Management Units 6 and 8 in Yavapai County, and Game Management Units 10 and 12B–45.

California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to main street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada-Oregon State lines west along the California-Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Imperial County Special Management Area: The area bounded by a line beginning at Highway 86 and the Navy Test Base Road; south on Highway 86 to the town of Westmoreland; continue through the town of Westmoreland to Route S26; east on Route S26 to Highway 115; north on Highway 115 to Weist Rd.; north on Weist Rd. to Flowing Wells Rd.; northeast on Flowing Wells Rd. to the Coachella Canal; northwest on the Coachella Canal to Drop 18; a straight line from Drop 18 to Frink Rd.; south on Frink Rd. to Highway 111; north on Highway 111 to Niland Marina Rd.; southwest on Niland Marina Rd. to the old Imperial County boat ramp and the water line of the Salton Sea; from the water line of the Salton Sea, a straight line across the Salton Sea to the Salinity Control Research Facility and the Navy Test Base Road; southwest on the Navy Test Base Road to the point of beginning.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and the Colorado River Zones.

North Coast Special Management Area: The Counties of Del Norte and Humboldt. Sacramento Valley Special Management Area (West): That area bounded by a line beginning at Willows south on I–5 to Hahn Road; easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes; northerly on CA 45 to the junction with CA 162; northerly on CA 45/162 to Glenn; and westerly on CA 162 to the point of beginning in Willows.

Colorado (Pacific Flyway Portion)

West Central Area: Archuleta, Delta, Dolores, Gunnison, LaPlata, Montezuma, Montrose, Ouray, San Juan, and San Miguel Counties and those portions of Hinsdale, Mineral, and Saguache Counties west of the Continental Divide.

State Area: The remainder of the Pacific-Flyway Portion of Colorado.

Idaho

Zone 1: Adams, Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone, and Valley Counties.

Zone 2: The Counties of Ada; Boise; Canyon; those portions of Elmore north and east of I–84, and south and west of I–84, west of ID 51, except the Camas Creek drainage; Gem; Owyhee west of ID 51; Payette; and Washington.

Zone 3: The Counties of Cassia except the Minidoka National Wildlife Refuge; those portions of Elmore south of I–84 east of ID 51, and within the Camas Creek drainage; Gooding; Jerome; Lincoln; Minidoka; Owyhee east of ID 51; and Twin Falls.

Zone 4: The Counties of Bear Lake; Bingham within the Blackfoot Reservoir drainage; Blaine; Bonneville, Butte; Camas; Caribou except the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Custer; Franklin; Fremont; Jefferson; Lemhi; Madison; Oneida; and Teton.

Zone 5: All lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County.

Montana (Pacific Flyway Portion)

East of the Divide Zone: The Pacific Flyway portion of the State located east of the Continental Divide.

West of the Divide Zone: The remainder of the Pacific Flyway portion of Montana.

Nevada

Lincoln Clark County Zone: All of Lincoln and Clark Counties.

Remainder-of-the-State Zone: The remainder of Nevada.

New Mexico (Pacific Flyway Portion)

North Zone: The Pacific Flyway portion of New Mexico located north of I–40.

South Zone: The Pacific Flyway portion of New Mexico located south of I–40.

Oregon

Southwest Zone: Those portions of Douglas, Coos, and Curry Counties east of Highway 101, and Josephine and Jackson Counties.

South Coast Zone: Those portions of Douglas, Coos, and Curry Counties west of Highway 101.

Northwest Special Permit Zone: That portion of western Oregon west and north of a line running south from the Columbia River in Portland along I–5 to OR 22 at Salem; then east on OR 22 to

the Stayton Cutoff; then south on the Stayton Cutoff to Stayton and due south to the Santiam River; then west along the north shore of the Santiam River to I–5; then south on I–5 to OR 126 at Eugene; then west on OR 126 to Greenhill Road; then south on Greenhill Road to Crow Road; then west on Crow Road to Territorial Hwy; then west on Territorial Hwy to OR 126; then west on OR 126 to Milepost 19; then north to the intersection of the Benton and Lincoln County line; then north along the western boundary of Benton and Polk Counties to the southern boundary of Tillamook County; then west along the Tillamook County boundary to the Pacific Coast.

Lower Columbia/N. Willamette Valley Management Area: Those portions of Clatsop, Columbia, Multnomah, and Washington Counties within the Northwest Special Permit Zone.

Tillamook County Management Area: All of Tillamook County is open to goose hunting except for the following area—beginning in Cloverdale at Hwy 101, west on Old Woods Rd to Sand Lake Rd at Woods, north on Sand Lake Rd to the intersection with McPhillips Dr, due west (~200 yards) from the intersection to the Pacific coastline, south on the Pacific coastline to Neskowin Creek, east along the north shores of Neskowin Creek and then Hawk Creek to Salem Ave, east on Salem Ave in Neskowin to Hawk Ave, east on Hawk Ave to Hwy 101, north on Hwy 101 at Cloverdale, to the point of beginning.

Northwest Zone: Those portions of Clackamas, Lane, Linn, Marion, Multnomah, and Washington Counties outside of the Northwest Special Permit Zone and all of Lincoln County.

Eastern Zone: Hood River, Wasco, Sherman, Gilliam, Morrow, Umatilla, Deschutes, Jefferson, Crook, Wheeler, Grant, Baker, Union, and Wallowa Counties.

Harney, Lake, and Malheur County Zone: All of Harney, Lake, and Malheur Counties.

Klamath County Zone: All of Klamath County.

Utah

Northern Utah Zone: All of Cache and Rich Counties, and that portion of Box Elder County beginning at I–15 and the Weber-Box Elder County line; east and north along this line to the Weber-Cache County line; east along this line to the Cache-Rich County line; east and south along the Rich County line to the Utah-Wyoming State line; north along this line to the Utah-Idaho State line; west on this line to Stone, Idaho-Snowville, Utah road; southwest on this road to Locomotive Springs Wildlife Management Area; east on the county road, past Monument Point and across Salt Wells Flat, to the intersection with Promontory Road; south on Promontory Road to a point directly west of the northwest corner of the Bear River Migratory Bird Refuge boundary; east along an imaginary line to the northwest corner of the Refuge boundary; south and east along the Refuge boundary to the southeast corner of the boundary; northeast along the boundary to the Perry access road; east on the Perry access road to I–15; south on I–15 to the Weber-Box Elder County line.

Remainder-of-the-State Zone: The remainder of Utah.

Washington

Area 1: Skagit, Island, and Snohomish Counties.

Area 2A (SW Quota Zone): Clark County, except portions south of the Washougal River; Cowlitz County; and Wahkiakum County.

Area 2B (SW Quota Zone): Pacific County.

Area 3: All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2A, and 2B.

Area 4: Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5: All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

Brant

Pacific Flyway

California

North Coast Zone: Del Norte, Humboldt and Mendocino Counties.

South Coast Zone: Balance of the State.

Washington

Puget Sound Zone: Skagit County.

Coastal Zone: Pacific County.

Swans

Central Flyway

South Dakota

Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Campbell, Clark, Codington, Davison, Deuel, Day, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

Pacific Flyway

Montana (Pacific Flyway Portion)

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287–89.

Nevada

Open Area: Churchill, Lyon, and Pershing Counties.

Utah

Open Area: Those portions of Box Elder, Weber, Davis, Salt Lake, and Toole Counties lying west of I–15, north of I–80, and south of a line beginning from the Forest Street exit to the Bear River National Wildlife Refuge boundary; then north and west along the Bear River National Wildlife Refuge boundary to the farthest west boundary of the Refuge; then west along a line to Promontory Road; then north on Promontory Road to the intersection of SR 83; then north on SR 83 to I–84; then north and west on I–84 to State Hwy 30; then west on State Hwy 30 to the Nevada-Utah State line; then south on the Nevada-Utah State line to I–80.

[FR Doc. E8–22439 Filed 9–24–08; 8:45 am]

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Federal Register

Thursday,
September 25, 2008

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds; Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2008–2009 Late Season; Final Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[FWS–R9–MB–2008–0032; 91200–1231–9BPP–L2]

RIN 1018–AV62

Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits for general waterfowl seasons and those early seasons for which States previously deferred selection. Taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule permits the taking of designated species during the 2008–09 season.

DATES: This rule is effective on September 26, 2008.

ADDRESSES: You may inspect comments received on the migratory bird hunting regulations during normal business hours at the Service's office in room 4107, Arlington Square Building, 4501 N. Fairfax Drive, Arlington, Virginia. You may obtain copies of referenced reports from the address above or from the Division of Migratory Bird Management's Web site at *http://www.fws.gov/migratorybirds/reports/reports.html.*

FOR FURTHER INFORMATION CONTACT: Robert Blohm, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2008

On May 28, 2008, we published in the **Federal Register** (73 FR 30712) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2008–09 regulatory cycle relating to open public meetings and **Federal Register** notifications were also identified in the May 28 proposed rule. Further, we explained that all sections of subsequent documents outlining hunting frameworks and guidelines were organized under numbered headings.

On June 18, 2008, we published in the **Federal Register** (73 FR 34692) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations. The June 18 supplement also provided detailed information on the 2008–09 regulatory schedule and announced the SRC and Flyway Council meetings.

On June 25 and 26, we held open meetings with the Flyway Council Consultants, at which the participants reviewed information on the current status of migratory shore and upland game birds and developed recommendations for the 2008–09 regulations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2008–09 regular waterfowl seasons. On July 24, 2008, we published in the **Federal Register** (73 FR 43290) a third document specifically dealing with the proposed frameworks for early-season regulations. On August 27, 2008, we published in the **Federal Register** (73 FR 50678) a rulemaking establishing final frameworks for early-season migratory bird hunting regulations for the 2008–09 season. Subsequently, on August 29, 2008, we published a final rule in the **Federal Register** (73 FR 51088) amending subpart K of title 50 CFR part 20 to set hunting seasons, hours, areas, and limits for early seasons.

On July 30–31, 2008, we held open meetings with the Flyway Council Consultants, at which the participants reviewed the status of waterfowl and developed recommendations for the 2008–09 regulations for these species. On August 29, 2008, we published in the **Federal Register** (73 FR 51124) the proposed frameworks for the 2008–09 late-season migratory bird hunting regulations. We published final late-season frameworks for migratory game bird hunting regulations, from which State wildlife conservation agency officials selected late-season hunting dates, hours, areas, and limits for 2008–09, in a late September 2008, **Federal Register**.

The final rule described here is the final in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations for 2008–09 and deals specifically with amending subpart K of 50 CFR part 20. It sets hunting seasons, hours, areas, and limits for species subject to late-season regulations and those for early seasons that States previously deferred.

National Environmental Protection Act (NEPA) Consideration

NEPA considerations are covered by the programmatic document ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the address indicated under the caption **ADDRESSES**.

In a notice published in the September 8, 2005, **Federal Register** (70 FR 53376), we announced our intent to develop a new Supplemental Environmental Impact Statement for the migratory bird hunting program. Public scoping meetings were held in the spring of 2006, as detailed in a March 9, 2006, **Federal Register** (71 FR 12216). We have prepared a scoping report summarizing the scoping comments and scoping meetings. The report is available by either writing to the address indicated under **ADDRESSES** or by viewing on our Web site at h*ttp://www.fws.gov/migratorybirds.*

Endangered Species Act Consideration

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. * * *.'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize any endangered or

threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final frameworks reflect any such modifications. Our biological opinions resulting from this section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES**.

Executive Order 12866

The Office of Management and Budget has determined that this rule is significant and has reviewed this rule under Executive Order 12866. OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

Regulatory Flexibility Act

The regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis discussed under Executive Order 12866. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, and 2008. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2008 Analysis was based on the 2006 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.2 billion at small businesses in 2008. Copies of the Analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.fws.gov/migratorybirds/reports/reports.html* or at *http://www.regulations.gov.*

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of our Migratory Bird Surveys and assigned control number 1018–0023 (expires 2/28/2011). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

In promulgating this rule, we have determined that it will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. Thus, in accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, in the May 28 proposed rule we solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2008–09 migratory bird hunting season. The resulting proposals were contained in a separate proposed rule (73 FR 48097; August 15, 2008). By virtue of these actions, we have consulted with all the Tribes affected by this rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or tribe may be more restrictive than the Federal frameworks. The frameworks are developed in a

cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In ensuring the maximum opportunity for public involvement in the annual process, we recognize that it limits the amount of lead time for final establishment of these seasons. That is, if there were a delay in the effective date of the State selections of season dates and limits, the opening of these seasons and the opportunity for the public to hunt migratory birds would be delayed. We, therefore, find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will take effect immediately upon publication.

Accordingly, with each conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State or Territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: September 18, 2008.

Lyle Laverty,

Assistant Secretary for Fish and Wildlife and Parks.

PART 20—[AMENDED]

■ For the reasons set out in the preamble, title 50, chapter I, subchapter B, part 20, subpart K of the Code of Federal Regulations is amended as follows:

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

Authority: Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742a–j; Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

BILLING CODE 4310–55–P

Note - The following annual regulations provided for by §§20.104, 20.105, 20.106, 20.107, and 20.109 of 50 CFR part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

2. Section 20.104 is amended by adding the entries for the following States in alphabetical order to read as follows:

§20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations.

Area descriptions were published in the August 27, 2008 (73 FR 50678) and a August 29, 2008 (73 FR 51124), Federal Registers.

NOTE: The following seasons are in addition to the seasons published previously in the August 29, 2008, Federal Register (73 FR 51088).

	Sora & Virginia Rails	Clapper & King Rails	Woodcock	Common Snipe
Daily bag limit	25 (1)	15 (2)	3	8
Possession limit	25 (1)	30 (2)	6	16
ATLANTIC FLYWAY				
		* * * * *		
Massachusetts (5)	Sept. 1-Nov. 8	Closed	Oct. 14-Nov. 1 & Nov. 3-Nov. 13	Sept. 1-Dec. 16
		* * * * *		
Vermont	Closed	Closed	Oct. 6-Nov. 4	Oct. 8-Dec. 18
		* * * * *		
MISSISSIPPI FLYWAY				
		* * * * *		
Louisiana	Sept. 13-Sept. 28 & Nov. 8-Dec. 31	Sept. 13-Sept. 28 & Nov. 8-Dec. 31	Dec. 18-Jan. 31	Nov. 1-Nov. 30 Dec. 13-Feb. 27
		* * * * *		
Tennessee				
Reelfoot Zone	Nov. 15-Nov. 16 & Nov. 29-Jan. 25	Closed	Oct. 25-Dec. 8	Nov. 14-Feb. 28

	Sora & Virginia Rails	Clapper & King Rails	Woodcock	Common Snipe
Tennessee (cont.)				
State Zone	Nov. 28-Jan. 25	Closed	Oct. 25-Dec. 8	Nov. 14-Feb. 28
Wisconsin				
North Zone	Sept. 27-Nov. 25	Closed	Sept. 20-Nov. 3	Sept. 27-Nov. 25
South Zone	Oct. 4-Oct. 12 & Oct. 18-Dec. 7	Closed	Sept. 20-Nov. 3	Oct. 4-Oct. 12 & Oct. 18-Dec. 7
* * * * *				
PACIFIC FLYWAY				
Arizona (18)				
North Zone	Closed	Closed	Closed	Oct. 3-Jan. 11
South Zone	Closed	Closed	Closed	Oct. 17-Jan. 25
* * * * *				
Idaho				
Zone 1 & 2	Closed	Closed	Closed	Oct. 4-Jan. 16
Zones 3	Closed	Closed	Closed	Oct. 11-Jan. 23
* * * * *				
Nevada				
Lincoln and Clark Counties	Closed	Closed	Closed	Oct. 11-Jan. 23
Rest of State	Closed	Closed	Closed	Oct. 11-Jan. 24
* * * * *				
Oregon				
Zone 1	Closed	Closed	Closed	Oct. 11-Oct. 26 & Oct. 29-Jan. 25
Zone 2	Closed	Closed	Closed	Oct. 11-Nov. 30 & Dec. 3-Jan. 25
* * * * *				
Washington				
East Zone	Closed	Closed	Closed	Oct. 11-Oct. 15 & Oct. 18-Jan. 25
West Zone	Closed	Closed	Closed	Oct. 11-Oct. 15 & Oct. 18-Jan. 25
* * * * *				

(1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these species.
(2) All bag and possession limits for clapper and king rails apply singly or in the aggregate of the two species and, unless otherwise specified, the limits are in addition to the limits on sora and Virginia rails in all States. In Connecticut, Delaware, Maryland, and New Jersey, the limits for clapper and king rails are 10 daily and 20 in possession.

* * * * *

(5) In Massachusetts, the sora limits are 5 daily and 5 in possession; the Virginia rail limits are 10 daily and 10 in possession.

* * * * *

(18) In Arizona, Ashurst Lake in Unit 5B is closed to common snipe hunting.

3. In § 20.105, paragraphs (a), (b), and (f) are amended by adding the entries for the following States in alphabetical order and paragraph (e) is revised to read as follows:

§20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Area descriptions were published in the August 27, 2008 (73 FR 50678) and a August 29, 2008 (73 FR 51124), Federal Registers.

(a) Common Moorhens and Purple Gallinules
(Atlantic, Mississippi, and Central Flyways)

NOTE: The following seasons are in addition to the seasons published previously in the August 29, 2008 Federal Register (73 FR 51088). The zones named in this paragraph are the same as those used for setting duck seasons.

	Season Dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
	* * * * *		
Georgia	Nov. 22-Nov. 30 & Dec. 6-Jan. 25	15	30
	* * * * *		
Virginia	Oct. 9-Oct. 13 &	15	30
	Nov. 15-Nov. 29 &	15	30
	Dec. 6-Jan. 24	15	30
West Virginia			
Zone 1	Oct. 1-Oct. 11 &	15	30
	Dec. 8-Jan. 25	15	30
Zone 2	Oct. 1-Oct. 11 &	15	30
	Dec. 1-Jan. 18	15	30

	Season Dates	Limits	
		Bag	Possession
	* * * * *		
MISSISSIPPI FLYWAY			
	* * * * *		
Louisiana	Sept. 13-Sept. 28 &	15	30
	Nov. 8-Dec. 31	15	30
Michigan			
North Zone	Oct. 4-Dec. 2	15	30
Middle Zone	Oct. 4-Nov. 30 &	15	30
	Dec. 6-Dec. 7	15	30
South Zone	Oct. 11-Dec. 7 &	15	30
	Jan. 3-Jan. 4	15	30
Minnesota (3)	Oct. 4-Dec. 2	15	30
	* * * * *		
Tennessee			
Reelfoot Zone	Nov. 15-Nov. 16 &	15	30
	Nov. 29-Jan. 25	15	30
State Zone	Nov. 28-Jan. 25	15	30
Wisconsin			
North Zone	Sept. 27-Nov. 25	15	30
South Zone	Oct. 4-Oct. 12 &	15	30
	Oct. 18-Dec. 7		
	* * * * *		
PACIFIC FLYWAY			
All States	Seasons are in aggregate with coots and listed in paragraph (e).		

* * * * *

(3) In Minnesota, the daily bag limit is 15 and the possession limit is 30 coots and moorhens in the aggregate.

(b) Sea Ducks (scoter, eider, and oldsquaw ducks in Atlantic Flyway)

NOTE: The following seasons are in addition to the seasons published previously in the August 29, 2008 Federal Register (73 FR 51088).

Within the special sea duck areas, the daily bag limit is 7 sea ducks of which no more than 4 may be scoters. Possession limits are twice the daily bag limit. These limits may be in addition to regular duck bag limits only during the regular duck season in the special sea duck hunting areas.

	Season Dates	Limits Bag	Possession
Georgia	Nov. 22-Nov. 30 &	7	14
	Dec. 6-Jan. 25	7	14
	* * * * *		
Maryland	Oct. 4-Jan. 31	5	10
Massachusetts (4)	Oct. 6-Jan. 24	7	14
	* * * * *		
North Carolina	Oct. 1-Jan. 31	7	14
	* * * * *		
South Carolina	Oct. 11-Jan. 25	7	14
Virginia	Oct. 9-Jan. 31	7	14

Note: Notwithstanding the provisions of this part 20, the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia, and Maryland in those areas described, delineated, and designated in their respective hunting regulations as special sea duck hunting areas.

* * * * *

(4) In Massachusetts, the daily bag limit may include no more than 4 eiders (only 1 of which may be a hen) and 4 long-tailed ducks.

(c) Early (September) Duck Seasons.

Note: Unless otherwise specified, the seasons listed below are for teal only.

	Season Dates	Limits Bag	Possession
	* * * * *		
CENTRAL FLYWAY			
	* * * * *		
Texas			
High Plains	Sept. 13-Sept. 28	4	8
Rest of State	Sept. 13-Sept. 28	4	8

* * * * *

(e) Waterfowl, Coots, and Pacific-Flyway Seasons for Common Moorhens and Purple Gallinules

Definitions

The Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

The Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

The Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

The Pacific Flyway: Includes the States of Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Light Geese: Includes lesser snow (including blue) geese, greater snow geese, and Ross' geese.

Dark Geese: Includes Canada geese, white-fronted geese, emperor geese, brant (except in California, Oregon, Washington, and the Atlantic Flyway), and all other geese except light geese.

ATLANTIC FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit of 6 ducks may include no more than 4 mallards (2 hen mallards), 1 scaup (except as footnoted below), 1 black duck, 1 pintail, 1 mottled duck, 3 wood ducks, 2 redheads, and 1 fulvous tree duck. The possession limit is twice the daily bag limit.

Canvasback and Harlequin Ducks: All areas of the Flyway are closed to canvasback and harlequin duck hunting.

Merganser Limits: The daily bag limit is 5 mergansers with 10 in possession and may include no more than 2 hooded mergansers daily and 4 in possession. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, of which only 2 daily and 4 in possession may be hooded mergansers.

	Season Dates	Limits	
		Bag	Possession
Connecticut			
Ducks and Mergansers:		6	12
North Zone (1)	Oct. 15-Oct. 25 & Nov. 14-Jan. 10		
South Zone (1)	Oct. 15-Oct. 21 & Nov. 24-Jan. 24		
Coots	Same as for Ducks	15	30
Canada Geese:			
AFRP Unit	Nov. 14-Feb. 14	5	10
NAP H-Unit	Nov. 8-Jan. 14	2	4
AP Unit	Nov. 20-Jan. 10	3	6
South Zone (special season)	Jan. 15-Feb. 14	5	10

	Season Dates	Limits	
		Bag	Possession
Connecticut (cont.)			
Light Geese:			
North Zone	Oct. 1-Jan. 10 &	15	--
	Feb. 17-Mar. 10	15	--
South Zone	Oct. 1-Nov. 29 &	15	--
	Jan. 6-Mar. 10	15	--
Brant:			
North Zone	Nov. 3-Jan. 10	3	6
South Zone	Nov. 17-Jan. 24	3	6
Delaware			
Ducks (2)	Oct. 24-Nov. 11 & Nov. 24-Dec. 6 & Dec. 19-Jan. 24	6	12
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Canada Geese	Nov. 24-Dec. 6 &	2	4
	Dec. 19-Jan. 26	2	4
Light Geese:			
Bombay Hook NWR Zone (3)	Oct. 13-Jan. 23 &	15	--
	Feb. 4-Mar. 6	15	--
Rest of State (4)	Oct. 13-Nov. 13 &	15	--
	Nov. 24-Jan. 24 &	15	--
	Jan. 26-Mar. 9	15	--
Brant	Nov. 24-Jan. 31	3	6
Florida			
Ducks (5)	Nov. 22-Nov. 30 & Dec. 6-Jan. 25	6	12
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Canada Geese	Nov. 22-Nov. 30 &	5	10
	Dec. 1-Jan. 30	5	10
Light Geese	Same as for Ducks	15	--
Georgia			
Ducks	Nov. 22-Nov. 30 & Dec. 6-Jan. 25	6	12
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Canada Geese (special season)	Same as for Ducks	5	10
Light Geese	Same as for Ducks	5	10
Brant	Closed	--	--
Maine			
Ducks (6):		6	12
North Zone (7)	Oct. 1-Dec. 9		
South Zone (7)	Oct. 1-Oct. 25 & Nov. 10-Dec. 23		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	5	10

	Season Dates	Limits	
		Bag	Possession
Maine (cont..)			
Canada Geese:			
North Zone	Same as for Ducks	2	4
South Zone	Same as for Ducks	2	4
Light Geese	Oct. 1-Jan. 31	15	--
Brant	Same as for Ducks	3	6
Maryland			
Ducks and Mergansers (8)	Oct. 18-Oct. 25 &	6	12
	Nov. 8-Nov. 28 &		
	Dec. 16-Jan. 24		
Coots	Same as for Ducks	15	30
Canada Geese:			
RP Zone	Nov. 15-Nov. 28 &	5	10
	Dec. 16-Mar. 4	5	10
AP Zone	Nov. 15-Nov. 28 &	2	4
	Dec. 18-Jan. 24	2	4
Light Geese (9)	Nov. 1-Nov. 28 &	15	--
	Dec. 4-Mar. 10	15	--
Brant	Nov. 8-Nov. 28 &	3	6
	Dec. 8-Jan. 24	3	6
Massachusetts			
Ducks (10):		6	12
Western Zone	Oct. 15-Nov. 29 &		
	Dec. 12-Jan. 3		
Central Zone	Oct. 14-Nov. 29 &		
	Dec. 15-Jan. 5		
Coastal Zone (11)	Oct. 17-Oct. 25 &		
	Nov. 26-Jan. 24		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Canada Geese:			
NAP Zone			
Central Zone:	Oct. 14-Nov. 29 &	2	4
	Dec. 15-Jan. 5	2	4
(special season)	Jan. 19-Feb. 14	5	10
Coastal Zone:	Oct. 17-Oct. 25 &	2	4
	Nov. 26-Jan. 24	2	4
(special season) (12)	Jan. 26-Feb. 14	5	10
AP Zone	Oct. 20-Nov. 29 &	3	6
	Dec. 12-Dec. 22	3	6
Light Geese:			
Western Zone	Same as for Ducks	15	30
Central Zone	Same as for Ducks &	15	30
	Jan. 19-Feb. 14	15	30
Coastal Zone	Same as for Ducks &	15	30
	Jan. 26-Feb. 14	15	30
Brant:			
Western & Central Zone	Closed	--	--
Coastal Zone	Nov. 17-Jan. 24	3	6

	Season Dates	Limits	
		Bag	Possession
New Hampshire			
Ducks:		6	12
Inland Zone	Oct. 2-Nov. 2 & Nov. 23-Dec. 20		
Coastal Zone	Oct. 3-Oct. 12 & Nov. 23-Jan. 11		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Canada Geese:			
Inland Zone	Same as for Ducks	2	4
Coastal Zone	Same as for Ducks	2	4
Light Geese:			
Inland Zone	Oct. 2-Dec. 20	15	--
Coastal Zone	Oct. 3-Jan. 11	15	-
Brant:			
Inland Zone	Same as for Ducks	3	6
Coastal Zone	Same as for Ducks	3	6
New Jersey			
Ducks:		6	12
North Zone (13)	Oct. 11-Nov. 1 & Nov. 15-Jan. 1		
South Zone (13)	Oct. 18-Nov. 1 & Nov. 15-Jan. 8		
Coastal Zone (13)	Nov. 1-Nov. 11 & Nov. 27-Jan. 24		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	15
Canada and White-fronted Geese:			
North Zone	Nov. 15-Nov. 29 &	3	6
	Dec. 13-Jan. 19	3	6
South Zone	Same as North Zone	3	6
Coastal Zone	Nov. 27-Dec. 6 &	3	6
	Dec. 9-Jan. 19	3	6
(special season)	Jan. 20-Feb. 15	5	10
Light Geese:			
North Zone	Nov. 7-Mar. 10	15	--
South Zone	Nov. 7-Mar. 10	15	--
Coastal Zone	Oct. 11-Feb. 12	15	--
Brant:			
North Zone	Same as for Ducks	3	6
South Zone	Same as for Ducks	3	6
Coastal Zone	Same as for Ducks	3	6
New York			
Ducks and Mergansers:		6	12
Long Island Zone (14)	Nov. 27-Jan. 25		
Lake Champlain Zone (14)	Oct. 8-Oct. 12 & Oct. 25-Dec. 18		

	Season Dates	Limits	
		Bag	Possession
New York (cont.)			
Northeastern Zone (14)	Oct. 4-Oct. 13 & Oct. 25-Dec. 13		
Southeastern Zone (14)	Oct. 11-Oct. 19 & Nov. 8-Dec. 28		
Western Zone (14)	Oct. 25-Dec. 7 & Dec. 27-Jan. 11		
Coots	Same as for Ducks	15	30
Canada Geese:			
Western Long Island (AFRP)	Nov. 27-Feb. 10	5	10
Central Long Island (NAP-L)	Nov. 27-Feb. 4	3	6
(Special season)	Feb. 5-Feb. 10	5	10
Eastern Long Island (NAP-H)	Nov. 27-Nov. 30 &	2	4
	Dec. 7-Jan. 31	2	4
Lake Champlain (AP) Zone	Oct. 20-Dec. 3	3	6
Northeast (AP) Zone	Oct. 25-Dec. 8	3	6
East Central (AP) Zone	Oct. 25-Nov. 14 &	3	6
	Nov. 22-Dec. 15	3	6
Hudson Valley (AP) Zone	Oct. 25-Nov. 11 &	3	6
	Dec. 6-Jan. 1	3	6
West Central (AP) Zone	Oct. 25-Nov. 22 &	3	6
	Dec. 27-Jan. 11	3	6
South (RP)	Oct. 25-Dec. 17 &	5	10
	Dec. 27-Jan. 11 &	5	10
	Mar. 1-Mar. 10	5	10
Light Geese:			
Long Island Zone	Oct. 27-Feb. 10	15	--
Lake Champlain Zone	Oct. 8-Dec. 29	15	--
Northeastern Zone	Oct. 1-Dec. 31 &	15	--
	Feb. 24-Mar. 10	15	-
Southeastern Zone	Oct. 25-Jan. 17 &	15	--
	Feb. 17-Mar. 10	15	--
Western Zone	Oct. 25-Dec. 17 &	15	--
	Dec. 27-Jan. 11 &	15	--
	Feb. 2-Mar. 10	15	--
Brant:			
Long Island Zone	Nov. 27-Jan. 25	3	6
Lake Champlain Zone	Oct. 8-Dec. 6	3	6
Northeastern Zone	Oct. 4-Dec. 2	3	6
Southeastern Zone	Oct. 18-Nov. 2 &	3	6
	Nov. 8-Dec. 21	3	6
Western Zone	Oct. 4-Dec. 2	3	6
North Carolina			
Ducks (15)	Oct. 1-Oct. 4 & Nov. 8-Nov. 29 & Dec. 13-Jan. 24	6	12
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30

	Season Dates	Limits Bag	Limits Possession
North Carolina (cont.)			
Canada Geese:			
Resident Population Hunt Zone	Oct. 1-Oct. 11 &	5	10
	Nov. 8-Nov. 29 &	5	10
	Dec. 13-Feb. 7	5	10
Southern James Bay Hunt Zone	Oct. 1-Oct. 25 &	5	10
	Nov. 8-Dec. 31	5	10
Northeast Hunt Zone	Dec. 22-Jan. 24	1 per season	
Light Geese	Oct. 15-Oct. 25 &	15	--
	Nov. 8-Feb. 28	15	--
Brant	Nov. 8-Nov. 29 &	3	6
	Dec. 13-Jan. 24	3	6
Pennsylvania			
Ducks:		6	12
North Zone (16)	Oct. 18-Nov. 1 & Nov. 17-Jan. 9		
South Zone (16)	Oct. 11-Oct. 18 & Nov. 15-Jan. 15		
Northwest Zone (16)	Oct. 18-Nov. 29 & Dec. 15-Jan. 9		
Lake Erie Zone (16)	Oct. 27-Jan. 3		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Canada Geese:			
AP Zone	Nov. 15-Nov. 29 &	3	6
	Dec. 19-Jan. 24	3	6
SJBP Zone	Oct. 25-Nov. 29 &	3	6
	Dec. 15-Jan. 28	3	6
Resident (RP) Zone	Oct. 25-Nov. 1 &	5	10
	Nov. 15-Nov. 29 &	5	10
	Dec. 22-Feb. 28	5	10
Light Geese	Nov. 6-Mar. 10	15	--
Brant	Oct. 11-Dec. 19	3	6
Rhode Island			
Ducks (17)	Oct. 10-Oct. 13 & Nov. 26-Nov. 30 & Dec. 6-Jan. 25	6	12
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Canada Geese	Nov. 22-Nov. 30 &	2	4
	Dec. 6-Jan. 25	2	4
(special season)	Jan. 30-Feb. 15	5	10
Light Geese	Oct. 11-Jan. 25	15	--
Brant	Nov. 22-Nov. 30 &	3	6
	Dec. 6-Jan. 25	3	6
South Carolina			
Ducks (18)(19)	Nov. 26-Nov. 30 & Dec. 6 only & Dec. 12-Jan. 25	6	12

	Season Dates	Limits	
		Bag	Possession
South Carolina (cont.)			
Mergansers (20)	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Canada and White-fronted Geese (21)	Nov. 26-Nov. 30 &	5	10
	Dec. 6 only &	5	10
	Dec. 12-Feb. 15	5	10
Light Geese	Same as for Ducks	15	--
Brant	Nov. 26-Nov. 30 &	3	6
	Dec. 12-Jan. 25	3	6
Vermont			
Ducks:		6	12
Lake Champlain Zone (22)	Oct. 8-Oct 12 & Oct. 25-Dec. 18		
Interior Zone (22)	Oct. 8-Dec. 6		
Connecticut River Zone	Oct. 2-Nov. 2 & Nov. 23-Dec. 20		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Canada Geese			
Lake Champlain Zone:	Oct. 20-Dec. 3	3	6
Interior Zone:	Oct. 20-Dec. 3	3	6
Connecticut River Zone	Oct. 2-Nov. 2 &	2	4
	Nov. 23-Dec. 20	2	4
Light Geese			
Lake Champlain Zone	Oct. 8-Dec. 29	15	-
Interior Zone	Oct. 8-Dec. 29	15	-
Connecticut River Zone	Oct. 2-Dec. 20	15	-
Brant			
Lake Champlain Zone	Oct. 8-Dec. 6	3	6
Interior Zone	Oct. 8-Dec. 6	3	6
Connecticut River Zone	Oct. 2-Nov. 2 &	3	6
	Nov. 23-Dec. 20	3	6
Virginia			
Ducks (23):	Oct. 9-Oct. 13 & Nov. 15-Nov. 29 & Dec. 6-Jan. 24	5	10
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Canada Geese:			
Back Bay Area	Dec. 22-Jan. 24	2	4
Eastern (AP) Zone	Nov. 15-Nov. 29 &	2	4
	Dec. 19-Jan. 24	2	4
Western (SJBP) Zone	Nov. 15-Nov. 29 &	3	6
	Dec. 15-Jan. 14	3	6
Western (RP) Zone	Nov. 15-Nov. 29 &	3	6
	Dec. 15-Jan. 14	3	6
(Special season)	Jan. 15-Feb. 14	5	10
Light Geese	Oct. 31-Nov. 29 &	15	--
	Dec. 6-Mar. 10	15	--
Brant	Nov. 15-Nov. 29 &	3	6
	Dec. 6-Jan. 29	3	6

	Season Dates	Limits Bag	Possession
West Virginia			
Ducks (24):		6	12
Zone 1	Oct. 1-Oct. 11 & Dec. 8-Jan. 25		
Zone 2	Oct. 1-Oct. 11 & Dec. 1-Jan. 18		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Canada Geese:			
Zone 1	Oct. 1-Oct. 25 &	5	10
	Dec. 8-Jan. 31	5	10
Zone 2	Oct. 1-Oct. 25 &	5	10
	Dec. 8-Jan. 31	5	10
Light Geese:			
Zone 1	Same as for Canada geese	5	10
Zone 2	Same as for Canada geese	5	10
Brant			
Zone 1	Dec. 8-Jan. 31	3	6
Zone 2	Dec. 8-Jan. 31	3	6

(1) In Connecticut, the daily bag limit for scaup is 2 from December 19 through January 10 in the North Zone and from January 2 through January 24 in the South Zone.
(2) In Delaware, the daily bag limit for scaup is 2 from January 2 through January 24.
(3) In Delaware, the Bombay Hook NWR snow goose season is open Mondays, Wednesdays, and Fridays only.
(4) In Delaware, the January 26 to March 9 Rest of State snow goose season is open Mondays, Wednesdays, Fridays, and Saturdays only.
(5) In Florida, the daily bag limit for scaup is 2 from January 6 through January 25.
(6) In Maine, the daily bag limit may include no more than 4 of any species, with no more than 8 of any one species in possession; the daily bag limit on teal may not include more than 4 birds (blue-winged and green-winged teal, singly or in the aggregate), with no more than 8 teal in possession. The season for Barrow's goldeneye is closed.
(7) In Maine, the daily bag limit for scaup is 2 from November 17 through December 9 in the North Zone and from December 1 through December 23 in the South Zone.
(8) In Maryland, the black duck season is closed October 18 through October 25 and the daily bag limit for scaup is 2 from January 2 through January 24.
(9) In Maryland, the February 1 to March 8 snow goose season is open Mondays, Wednesdays, Fridays, and Saturdays only.
(10) In Massachusetts, the daily bag limit may include no more than 4 of any single species in addition to the flyway-wide bag restrictions.
(11) In Massachusetts, in the Coastal Zone, the daily bag limit for scaup is 2 from January 2 through January 24.
(12) In Massachusetts, the special season in the Coastal Zone is restricted to that portion of the Coastal Zone north of the Cape Cod Canal.
(13) In New Jersey, the daily bag limit for scaup is 2 from December 10 through January 1 in the North Zone, from December 17 through January 8 in the South Zone, and from January 2 through January 24 in the Coastal Zone.
(14) In New York, the daily bag limit for scaup is 2 from January 6 through January 25 in the Long Island Zone, from October 25 through November 13 in the Lake Champlain Zone, from November 1 through November 20 in the Northeastern Zone, from November 22 through December 11 in the Southeastern Zone, and from December 4 through December 7 and December 27 through January 11 in the Western Zone.
(15) In North Carolina, the season is closed for black ducks October 1 through October 4 and November 8 through November 29. The daily bag limit for Black and Mottled ducks are combined with no more than 1 allowed in the bag. The daily bag limit for scaup is 2 from January 2 through January 24.
(16) In Pennsylvania, the daily bag limit for scaup is 2 from November 17 through December 9 in the North Zone, from November 15 through December 8 in the South Zone, from October 18 through November 10 in the Northwest

Zone, and from October 27 through November 18 in the Lake Erie Zone.
(17) In Rhode Island, the daily bag limit for scaup is 2 from January 6 through January 25.
(18) In South Carolina, the daily bag limit of 6 may not exceed 1 black-bellied whistling duck, 1 female mallard and 1 black duck or 1 mottled duck in the aggregate. The daily bag limit for scaup is 2 from January 6 through January 25.
(19) In South Carolina, on December 6, 2008, only youth less than 18 years of age may hunt, but they must be accompanied by an adult of at least 21 years of age who is fully licensed. Youth who are 16 and 17 years of age, who hunt, must possess a Federal Waterfowl Stamp and HIP permit.
(20) In South Carolina, the daily bag limit for mergansers may include no more than 1 hooded merganser.
(21) In South Carolina, the daily bag limit may include no more than 2 white-fronted geese.
(22) In Vermont, the daily bag limit for scaup is 2 from October 25 through November 13 in the Lake Champlain and Interior Zones.
(23) In Virginia, the season is closed for black ducks October 9 through October 13 and the daily bag limit for scaup is 2 from January 2 through January 24.
(24) In West Virginia, the daily bag limit may include no more than 4 long-tailed ducks and the season is closed for eiders, whistling ducks, and mottled ducks.

MISSISSIPPI FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit of 6 ducks may include no more than 4 mallards (no more than 2 of which may be females), 3 mottled ducks, 1 black duck, 1 pintail, 2 redheads, 1 scaup (except as footnoted below), and 3 wood ducks. The possession limit is twice the daily bag limit.

Canvasback Ducks: All areas of the Flyway are closed to canvasback duck hunting.

Merganser Limits: The merganser limits include no more than 2 hooded mergansers daily and 4 in possession. In states that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, of which only 2 daily and 4 in possession may be hooded mergansers.

	Season Dates	Limits	
		Bag	Possession
Alabama			
Ducks:		6	12
North Zone (1)	Nov. 27-Jan. 25		
South Zone (1)	Same as North Zone		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Geese:			
Dark Geese:			
North Zone:			
SJBP Zone	Sept. 27-Oct. 6 &	2	4
	Nov. 27-Jan. 25	2	4
Rest of North Zone	Same as SJBP Zone	2	4
South Zone	Same as Rest of North Zone	2	4
Light Geese:			
North Zone:			
SJBP Zone	Same as Rest of North Zone	5	5
Monroe and Escambia Counties	Sept. 27-Oct. 6 &	5	5
	Nov. 1-Nov. 14 &	5	10
	Nov. 27-Jan. 25	5	5
Rest of North Zone	Same as for Dark Geese	5	5
South Zone	Same as for Dark Geese	5	5

	Season Dates	Limits	
		Bag	Possession
Arkansas			
Ducks (2)	Nov. 22-Dec. 1 &	6	12
	Dec. 6-Dec. 24 &		
	Dec. 26-Jan. 25		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Geese:			
Canada:			
Northwest Zone	Sept. 27-Oct. 6 &	2	4
	Dec. 26-Jan. 30	2	4
Remainder of State	Dec. 26-Jan. 30	2	4
White-fronted	Nov. 15-Dec. 1 &	2	4
	Dec. 6-Dec. 24 &	2	4
	Dec. 26-Jan. 30	2	4
Brant	Closed	--	--
Light Geese	Nov. 8-Dec. 24 &	20	--
	Dec. 26-Jan. 30	20	-
Illinois			
Ducks:		6	12
North Zone (3)	Oct. 18-Dec. 16		
Central Zone (3)	Oct. 25-Dec. 23		
South Zone (3)	Nov. 27-Jan. 25		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Geese:			
Canada:			
North Zone	Oct. 18-Jan. 10	2	4
Central Zone	Oct. 25-Nov. 9 &	2	4
	Nov. 24-Jan. 31	2	4
South Zone	Nov. 27-Jan. 31	2	4
White-fronted:			
North Zone	Oct. 31-Jan. 10	2	4
Central Zone	Nov. 21-Jan. 31	2	4
South Zone	Nov. 27-Jan. 31	2	4
Brant	Same as for Light Geese	1	2
Light Geese			
North Zone	Oct. 18-Jan. 10	20	--
Central Zone	Oct. 25-Jan. 31	20	-
South Zone	Nov. 27-Jan. 31	20	-
Indiana			
Ducks:		6	12
North Zone	Oct. 18-Dec. 16		
South Zone	Oct. 25-Nov. 2 &		
	Nov. 26-Jan. 15		
Ohio River Zone	Nov. 1-Nov. 2 &		
	Nov. 29-Jan. 25		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30

	Season Dates	Limits	
		Bag	Possession
Indiana (cont.)			
Geese:			
Canada:			
North Zone	Oct. 18-Oct. 19 &	2	4
	Nov. 8-Jan. 18	2	4
South Zone	Oct. 25-Nov. 2 &	2	4
	Nov. 26-Jan. 29	2	4
Ohio River Zone	Nov. 1-Nov. 2 &	2	4
	Nov. 21-Jan. 31	2	4
Late Season Zone	Feb. 1-Feb. 15	5	10
White-fronted	Nov. 7-Jan. 31	1	2
Brant	Oct. 18-Jan. 30	1	2
Light Geese	Oct. 18-Jan. 30	20	--
Iowa			
Ducks:		6	12
North Duck Zone (4)	Sept. 20-Sept. 24 & Oct. 18-Dec. 11		
South Duck Zone (4)	Sept. 20-Sept. 24 & Oct. 18-Dec. 11		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Geese:			
Canada:			
North Goose Zone	Sept. 27-Oct. 5 &	2	4
	Oct. 18-Dec. 21 &	2	4
	Dec. 27-Jan. 11	2	4
South Goose Zone	Same as for North Zone	2	4
White-fronted:			
North Goose Zone	Sept. 27-Dec. 7	2	4
South Goose Zone	Sept. 27-Dec. 7	2	4
Brant:			
North Goose Zone	Same as for Canada geese	1	2
South Goose Zone	Same as for Canada geese	1	2
Light Geese	Sept. 27-Jan. 11	20	--
Kentucky			
Ducks:		6	12
West Zone (5)	Nov. 27-Jan. 25		
East Zone (5)	Same as for West Zone		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Canada:			
Western Goose Zone:			
Fulton County	Nov. 23-Jan. 31	2	4
Rest of Zone	Nov. 23-Jan. 31	2	4
Pennyroyal/Coalfield Zone	Nov. 23-Jan. 31	2	4
Rest of State	Nov. 23-Jan. 31	2	4
White-fronted	Nov. 23-Jan. 31	2	4
Brant	Nov. 23-Jan. 31	2	4

	Season Dates	Limits Bag	Possession
Kentucky (cont.)			
Light Geese			
Western Goose Zone:			
Fulton County	Nov. 23-Jan. 31	20	-
Rest of Zone:	Nov. 23-Jan. 31	20	-
Rest of State	Nov. 23-Jan. 31	20	-
Louisiana			
Ducks:		6	12
West Zone (6)	Nov. 8-Nov. 30 & Dec. 13-Jan. 18		
East Zone (including Catahoula Lake) (6)	Nov. 15-Nov. 30 & Dec. 13-Jan. 25		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Geese:			
Canada	Jan. 10-Jan. 25	1	2
White-fronted:			
West Zone	Nov. 8-Nov. 30 &	2	4
	Dec. 13-Jan. 30	2	4
East Zone	Nov. 3-Nov. 30 &	2	4
	Dec. 13-Jan. 25	2	4
Brant	Closed	-	--
Light Geese	Same as for White-fronted	20	--
Michigan			
Ducks (2):		6	12
North Zone (7)	Oct. 4-Dec. 2		
Middle Zone (7)	Oct. 4-Nov. 30 & Dec. 6-Dec. 7		
South Zone (7)	Oct. 11-Dec. 7 & Jan. 3-Jan. 4		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Geese:			
Canada :			
North Zone	Sept. 22-Nov. 5	2	4
Middle Zone	Oct. 4-Nov. 10 &	2	4
	Nov. 27-Dec. 3	2	4
South Zone:			
Muskegon Wastewater GMU	Oct. 14-Nov. 13 &	2	4
	Dec. 2-Dec. 15	2	4
Allegan County GMU	Nov. 8-Nov. 10 &	2	4
	Dec. 20-Jan. 30	2	4
Saginaw County GMU	Oct. 11-Nov. 13 &	2	4
	Nov. 27-Dec. 7 &	2	4
	Jan. 3-Feb. 1	2	4
Tuscola/Huron GMU	Same as Saginaw County GMU	2	4
Remainder of South Zone	Oct. 11-Nov. 13 &	2	4
	Nov. 27-Dec. 7 &	2	4
	Jan. 3-Feb. 1	5	10
White-fronted and Brant	Sept. 22-Dec. 16	1	2
Light Geese	Sept. 22-Dec. 16	10	30

	Season Dates	Limits	
		Bag	Possession
Minnesota			
Ducks (2)(8)	Oct. 4-Dec. 2	6	12
Mergansers	Same as for Ducks	5	10
Coots (9)	Same as for Ducks	15	30
Geese:			
Canada:			
West Zone:			
West Central Zone	Oct. 16-Oct. 19 &	2	4
	Oct. 25-Nov. 30	2	4
Rest of West Zone	Oct. 4-Dec. 2	2	4
(Special season)	Dec. 13-Dec. 22	5	10
Southeast Zone	Oct. 4-Dec. 12	2	4
(Special season)	Dec. 13-Dec. 22	2	4
Rest of State	Oct. 4-Dec. 12	2	4
(Special season)	Dec. 13-Dec. 22	5	10
White-fronted	Oct. 4-Dec. 22	1	2
Brant	Oct. 4-Dec. 22	1	2
Light Geese	Oct. 4-Dec. 22	20	40
Mississippi			
Ducks	Nov. 27-Jan. 25	6	12
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Geese:			
Canada	Nov. 17-Jan. 25	3	6
White-fronted	Nov. 15-Jan. 25	2	4
Brant	Same as for Canada geese	2	4
Light Geese	Same as for White-fronted	20	-
Missouri			
Ducks and Mergansers:		6	12
North Zone	Oct. 25-Dec. 23		
Middle Zone	Nov. 1-Dec. 30		
South Zone	Nov. 27-Jan. 25		
Coots	Same as for Ducks	15	30
Geese:			
Canada	Sept. 27-Oct. 5 &	3	6
	Nov. 22-Jan. 30	2	4
White-fronted	Nov. 22-Jan. 30	2	4
Brant	Same as for Canada geese	1	2
Light Geese	Oct. 25-Jan. 30	20	--
Ohio			
Ducks (2):		6	12
North Zone (10)	Oct. 18-Dec. 7 &		
	Dec. 20-Dec. 28		
South Zone (10)	Oct. 18-Nov. 2 &		
	Dec. 6-Jan. 18		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Geese:			

	Season Dates	Limits: Bag	Limits: Possession
Ohio (cont.)			
Canada:			
North Zone:			
Lake Erie SJBP Zone	Oct. 18-Nov. 30 &	2	4
	Dec. 3-Dec. 28	2	4
Rest of North Zone	Oct. 18-Nov. 30 &	2	4
	Dec. 17-Jan. 11	2	4
South Zone	Oct. 18-Nov. 5 &	2	4
	Dec. 6-Jan. 25	2	4
White-fronted and Brant	Same as for Canada geese	2	4
Light Geese	Same as for Canada geese	10	30
Tennessee			
Ducks:		6	12
Reelfoot Zone	Nov. 15-Nov. 16 & Nov. 29-Jan. 25		
State Zone	Nov. 28-Jan. 25		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Geese:			
Canada:			
Northwest Zone	Nov. 29-Feb. 8	2	4
Southwest Zone	Oct. 4-Oct. 11 &	2	4
	Nov. 28-Jan. 30	2	4
Kentucky/Barkley Lakes Zone	Same as Southwest Zone	2	4
Rest of State	Same as Southwest Zone	2	4
White-fronted	Nov. 29-Feb. 8	2	4
Brant	Nov. 23-Jan. 31	2	4
Light Geese	Nov. 24-Mar. 10	20	--
Wisconsin			
Ducks (2):			612
North Zone (11)	Sept. 27-Nov. 25		
South Zone (11)	Oct. 4-Oct. 12 & Oct. 18-Dec. 7		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Geese:			
Canada:			
Horicon Zone	Sept. 16-Dec. 16	Tag System--See State Regulations	
Collins Zone	Sept. 16-Nov. 21	Tag System--See State Regulations	
Exterior Zone:			
North Portion:			
Brown Co. Subzone - North	Sept. 20-Dec. 13	2	4
Remainder of North Portion	Sept. 20-Dec. 13	2	4
South Portion:			
Rock Prairie Subzone	Sept. 20-Oct. 12 &	2	4
	Oct. 18-Dec. 18	2	4
Brown Co. Subzone - South	Same as Rock Prairie Subzone	2	4
Mississippi River Subzone	Oct. 4-Oct. 12 &	2	4
	Oct. 18-Jan. 1	2	4
Remainder of South Portion	Same as Rock Prairie Subzone	2	4

	Season Dates	Limits Bag	Limits Possession
Wisconsin (cont.)			
White-fronted:			
Horicon Zone	Sept. 22-Dec. 16	1	2
Collins and Exterior Zones	Same as for Canada geese	1	2
Brant	Same as for Canada geese	1	2
Light Geese	Same as for Canada geese	20	40

(1) In Alabama, the daily bag limit for scaup is 2 from January 6 through January 25 in the North and South Zones.
(2) In Arkansas, Michigan, Minnesota, Ohio, and Wisconsin, the daily bag limit may include no more than one hen mallard.
(3) In Illinois, the daily bag limit for scaup is 2 from November 4 through November 23 in the North Zone, from November 11 through November 30 in the Central Zone, and from November 27 through December 16 in the South Zone.
(4) In Iowa, the daily bag limit for scaup is 2 from November 1 through November 20 in the North and South Zones.
(5) In Kentucky, the daily bag limit for scaup is 2 from January 6 through January 25 in the West and East Zones.
(6) In Louisiana, the daily bag limit for scaup is 2 from December 30 through January 18 in the West Zone and from January 6 through January 25 in the East Zones.
(7) In Michigan, the daily bag limit for scaup is 2 from October 11 through October 30 in the North Zone, from October 18 through November 6 in the Middle Zone, and from October 25 through November 13 in the South Zone.
(8) In Minnesota, the daily bag limit for scaup is 2 from October 25 through November 13.
(9) In Minnesota, the daily bag limit is 15 and the possession limit is 30 coots and moorhens in the aggregate.
(10) In Ohio, the daily bag limit for scaup is 2 from November 18 through December 7 in the North Zone and from December 6 through December 25 in the South Zone.
(11) In Wisconsin, the daily bag limit for scaup is 2 from October 18 through November 6 in the North Zone and from November 1 through November 20 in the South Zone.

CENTRAL FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit is either (1) 6 ducks, which may include no more than 5 mallards (2 female mallards), 1 mottled duck, 1 pintail, 1 canvasback, 2 redheads, 2 scaup, and 2 wood ducks; or (2) 5 ducks, which may include no more than 2 redheads, 2 scaup, and 2 wood ducks, and only 1 from the following group - hen mallard, pintail, mottled duck, or canvasback. The possession limit is twice the daily bag limit.

Merganser Limits: The daily bag limit is 5 mergansers with 10 in possession and may include no more than 2 hooded mergansers daily and 4 in possession. In states that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, of which only 2 daily and 4 in possession may be hooded mergansers.

	Season Dates	Limits Bag	Limits Possession
Colorado			
Ducks:		6	12
Eastern Plains Zone:			
Canvasbacks	Oct. 4-Oct. 20 &	1	2
	Nov. 8-Nov. 29	1	2
Pintails	Same as for Canvasbacks	1	2
Other ducks	Oct. 4-Oct. 20 & Nov. 8-Jan. 25		
Mountain/Foothills Zone:			
Canvasbacks	Oct. 4-Nov. 11	1	2

	Season Dates	Limits	
		Bag	Possession
Colorado (cont.)			
Pintails	Same as for Canvasbacks	1	2
Other ducks	Oct. 4-Nov. 30 & Dec. 19-Jan. 25		
Coots	Same as for Other ducks	15	30
Mergansers	Same as for Other ducks	5	10
Dark Geese:			
Northern Front Range Unit	Oct. 4-Oct. 15 &	4	8
	Nov. 15-Feb. 15	4	8
South Park/San Luis Valley Unit	Same as N. Front Range Unit	4	8
North Park Unit	Same as N. Front Range Unit	4	8
Rest of State in Central Flyway	Nov. 15-Feb. 15	4	8
Light Geese:			
Northern Front Range Unit	Nov. 15-Feb. 15	20	--
South Park/San Luis Valley Unit	Same as N. Front Range Unit	20	--
North Park Unit	Same as N. Front Range Unit	20	--
Rest of State in Central Flyway	Same as N. Front Range Unit	20	--
Kansas			
Ducks (1):		5	10
High Plains	Oct. 4-Dec. 30 & Jan. 17-Jan. 25		
Low Plains:			
Early Zone	Oct. 11-Dec. 7 & Dec. 20-Jan. 4		
Late Zone	Oct. 25-Dec. 28 & Jan. 17-Jan. 25		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Dark Geese (2):			
Canada	Oct. 25-Oct. 26 &	3	6
	Nov. 5-Feb. 15	3	6
White-fronted	Oct. 25-Oct. 26 &	2	4
	Nov. 5-Jan. 4 &	2	4
	Feb. 7-Feb. 15	2	4
Light Geese	Oct. 25-Oct. 26 &	20	--
	Nov. 5-Feb. 15	20	--
Montana			
Ducks and Mergansers:		6	12
Zone 1:			
Canvasbacks	Oct. 4-Nov. 11	1	2
Pintails	Oct. 4-Nov. 11	1	2
Other ducks	Oct. 4-Jan. 8		
Zone 2	Same as for Zone 1		
Coots	Same as Other ducks	15	30
Dark Geese	Oct. 4-Jan. 16	4	8
Light Geese	Oct. 4-Jan. 16	6	12
Nebraska			
Ducks:		6	12
High Plains:			
Canvasbacks	Oct. 11-Nov. 18	1	2

	Season Dates	Limits	
		Bag	Possession
Nebraska (cont.)			
Pintails	Oct. 11-Nov. 18	1	2
Other ducks	Oct. 11-Jan. 14		
Low Plains:			
Zones 1 and 2:			
Canvasbacks	Oct. 18-Oct. 19 &	1	2
	Oct. 25-Nov. 30	1	2
Pintails	Same as for Canvasbacks	1	2
Other ducks	Oct. 18-Oct. 19 & Oct. 25-Jan. 4		
Zones 3 and 4:			
Canvasbacks	Oct. 11-Nov. 18	1	2
Pintails	Oct. 11-Nov. 18	1	2
Other ducks	Oct. 11-Dec. 21 & Dec. 27-Dec. 28		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada:			
Niobrara Unit	Oct. 25-Feb. 6	3	6
East Unit	Oct. 25-Jan. 28	3	6
North Central Unit	Oct. 11-Jan. 23	3	6
Platte River Unit	Same as for Niobrara Unit	3	6
White-fronted	Oct. 11-Dec. 21	2	4
Light Geese	Oct. 11-Jan. 11 &	20	--
	Jan. 26-Feb. 6	20	--
New Mexico			
Ducks and Mergansers (3):		6	12
North Zone:			
Canvasbacks	Oct. 11-Nov. 18	1	2
Pintails	Oct. 11-Nov. 18	1	2
Other ducks/mergansers	Oct. 11-Jan. 14		
South Zone:			
Canvasbacks	Dec. 18-Jan. 25	1	2
Pintails	Dec. 18-Jan. 25	1	2
Other ducks/mergansers	Oct. 22-Jan. 25		
Coots	Same as for Other ducks	15	30
Dark Geese (4):			
Middle Rio Grande Valley Unit (4)	Jan. 3-Jan. 25	2	2
Rest of State	Oct. 17-Jan. 31	4	8
Light Geese	Oct. 17-Jan. 31	20	80
North Dakota			
Ducks (1):		5	10
High Plains	Sept. 27-Dec. 7 & Dec. 13-Jan. 4		
Remainder of State	Sept. 27-Dec. 7		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30

	Season Dates	Limits: Bag	Limits: Possession
North Dakota (cont.)			
Geese:			
Canada Geese (5):			
Missouri River Zone	Sept. 27-Jan. 2	3	6
Rest of State	Sept. 27-Dec. 25	3	6
White-fronted (5)	Sept. 27-Dec. 7	2	4
Light Geese (5)	Sept. 27-Jan. 2	20	--
Oklahoma			
Ducks:		6	12
High Plains:			
Canvasbacks	Oct. 11-Nov. 18	1	2
Pintails	Oct. 11-Nov. 18	1	2
Other ducks	Oct. 11-Jan. 7		
Low Plains:			
Zone 1:			
Canvasbacks	Oct. 25-Nov. 30 &	1	2
	Dec. 13-Dec. 14	1	2
Pintails	Same as Canvasbacks	1	2
Other ducks	Oct. 25-Nov. 30 & Dec. 13-Jan. 18		
Zone 2:			
Canvasbacks	Dec. 18-Jan. 25	1	2
Pintails	Dec. 18-Jan. 25	1	2
Other ducks	Nov. 1-Nov. 30 & Dec. 13-Jan. 25		
Mergansers	Same as for Other ducks	5	10
Coots	Same as for Other ducks	15	30
Geese:			
Canada	Nov. 1-Nov. 30 &	3	6
	Dec. 13-Feb. 15	3	6
White-fronted	Nov. 1-Nov. 30 &	2	4
	Dec. 13-Feb. 6	1	2
Light Geese	Same as for Canada geese	20	-
South Dakota			
Ducks (1):		5	10
High Plains	Oct. 4-Dec. 16 & Dec. 17-Jan. 8		
Low Plains::			
North Zone	Sept. 27-Dec. 9		
Middle Zone	Same as for North Zone		
South Zone	Oct. 11-Dec. 23		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Geese:			
White-fronted	Sept. 27-Dec. 21	1	2
Canada:			
Unit 1	Sept. 27-Dec. 21	3	6
Unit 2	Nov. 1-Feb. 13	3	6
Unit 3	Oct. 18-Dec. 21 &	3	6
	Jan. 10-Jan. 18	3	6
Light Geese	Sept. 27-Dec. 21	20	--

	Season Dates	Limits	
		Bag	Possession
Texas			
Ducks (6):		5	10
High Plains	Oct. 25-Oct. 26 & Oct. 31-Jan. 25		
Low Plains:			
North Zone	Nov. 1-Nov. 30 & Dec. 13-Jan. 25		
South Zone	Same as North Zone		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Geese:			
East Tier:			
South Zone:			
Canada geese and Brant	Nov. 1-Jan. 25	3	6
White-fronted	Nov. 1-Jan. 11	2	4
Light Geese	Nov. 1-Jan. 25	20	--
North Zone	Same as for South Zone		
West Tier:			
Dark Geese:			
Canada geese and Brant	Nov. 8-Feb. 8	4	8
White-fronted	Same as for Canada geese	1	2
Light Geese	Same as for Canada geese	20	--
Wyoming			
Ducks (1):		5	10
Zone 1	Oct. 4-Oct. 21 & Nov. 1-Jan. 18		
Zone 2	Sept. 27-Oct. 19 & Nov. 1-Jan. 13		
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	30
Dark Geese:			
Zone 1	Oct. 4-Oct. 21 &	5	10
	Nov. 1-Dec. 7 &	5	10
	Dec. 13-Jan. 31	5	10
Zone 2	Sept. 27-Nov. 30 &	5	10
	Dec. 13-Jan. 21	5	10
Zone 3 (2)	Oct. 4-Oct. 21 &	2	4
	Nov. 15-Feb. 9	3	6
Zone 4	Sept. 27-Oct. 19 &	5	10
	Nov. 1-Dec. 7 &	5	10
	Dec. 13-Jan. 26	5	10
Light Geese	Oct. 4-Jan. 1 &	10	40
	Jan. 26-Feb. 9	10	40

(1) In Kansas, North Dakota, South Dakota, and Wyoming, the daily bag limit is 5 ducks, which may include no more than 2 redheads, 2 scaup, and 2 wood ducks, and only 1 from the following group - hen mallard, pintail, mottled duck, or canvasback. The possession limit is twice the daily bag limit.

(2) See State regulations for additional restrictions.

(3) In New Mexico, the daily bag limit of 6 ducks consists of no more than 5 mallards (of which only 2 may be hen mallards), 2 redheads, 2 scaup, 2 wood ducks, 2 hooded mergansers, 1 canvasback, and 1 northern pintail (see dates by zone).
(4) In New Mexico, the season for dark geese is closed in Bernalillo and Sandoval Counties. In the Middle Rio Grande Valley Unit, a state permit is required.
(5) In North Dakota, the shooting hours for geese are fom one-half hour before sunrise to 1 p.m. each day including opening day through November 1, 2008. Except as follows: Starting November 2, 2008 shooting hours for geese shall be from one-half hour before sunrise to 2 p.m. each day; Shooting hours for Canada and light geese shall be one-half (½) hour before sunrise to sunset on Saturdays and Wednesdays from September 27 through November 30, 2008 and on Saturdays, Sundays and Wednesdays from December 3, 2008 through January 2, 2009; Shooting hours for white-fronted geese shall be one-half (½) hour before sunrise to sunset on Saturdays and Wednesdays from September 27 through December 6 and on Sunday, December 7, 2008.
(6) In Texas, the daily bag limit is 5 ducks, which may include no more than 2 redheads, 2 scaup, and 2 wood ducks, and only 1 from the following group - hen mallard, pintail, canvasback, or dusky duck (mottled duck, black duck and their hybrids, or Mexican-like duck). The possession limit is twice the daily bag limit.

PACIFIC FLYWAY

Flyway-wide Restrictions

Duck and Merganser Limits: The daily bag limit of 7 ducks (including mergansers) may include no more than 2 female mallards, 1 pintail, 2 redheads, and 2 scaup. The possession limit is twice the daily bag limit.

Canvasback Ducks: All areas of the Flyway are closed to canvasback duck hunting.

Coot and Common Moorhen Limits: Daily bag and possession limits are in the aggregate for the two species.

Goose Limits: Daily bag limits for geese may not exceed 2 white-fronted geese and 3 light geese. The possession limit is twice the daily bag limit.

	Season Dates	Limits	
		Bag	Possession
Arizona			
Ducks (1):		7	14
North Zone:			
Scaup	Oct. 18-Jan. 11	2	4
Other Ducks	Oct.3-Jan.11		
South Zone:			
Scaup	Nov. 1-Jan. 25	2	4
Other Ducks	Oct. 17-Jan. 25		
Coots and moorhens	Same as Ducks	25	25
Geese (2):			
North Zone	Oct. 3-Jan. 11	3	3
South Zone	Oct. 17-Jan. 11	3	3
California			
Ducks:		7	14
Northeastern Zone:			
Scaup	Oct. 11-Jan. 4	2	4
Other Ducks	Oct. 11-Jan. 23		
Colorado River Zone:			
Scaup	Nov. 1-Jan. 25	2	4
Other Ducks	Oct. 17-Jan. 25		
Southern Zone:			
Scaup	Nov. 1-Jan. 25	2	4
Other Ducks	Oct. 18-Jan. 25		

	Season Dates	Limits	
		Bag	Possession
California (cont.)			
Southern San Joaquin Valley Zone:			
Scaup	Nov. 9-Jan. 25	2	4
Other Ducks	Oct. 4-Oct. 26 &		
	Nov. 9-Jan. 25		
Balance-of-State Zone:			
Scaup	Nov. 1-Jan. 25	2	4
Other Ducks	Oct. 18-Jan. 25		
Coots and moorhens	Same as for Ducks	25	25
Geese:			
Northeastern Zone:		8	16
Canada Geese:			
Small Canada Geese (3)	Oct. 11-Jan. 18	1	2
Large Canada Geese (4)	Oct. 11-Jan. 18	2	4
White-fronted Geese	Oct. 11-Jan. 18	4	8
Light Geese	Oct. 11-Jan. 18	6	12
Colorado River Zone:		6	12
Dark Geese	Oct. 17-Jan. 25	3	6
Light Geese	Oct. 17-Jan. 25	6	12
Southern Zone:		8	16
Dark Geese	Oct. 18-Jan. 25	3	6
Light Geese:			
Imperial Valley	Nov. 1-Jan. 25 &	6	12
	Feb. 14-Mar. 1	6	12
Rest of Zone	Oct. 18-Jan. 25	6	12
Balance-of-State Zone:		8	16
Canada Geese:	Oct. 18-Jan. 25		
Small Canada geese (3)		6	12
Large Canada geese (4)		4	8
White-fronted Geese:			
Sacramento Valley	Oct. 25-Dec. 14	2	4
Rest of Zone	Oct. 18-Jan. 25	4	8
Light Geese	Oct. 18-Jan. 25	6	12
Del Norte & Humboldt Counties:		6	12
Canada:			
Small Canada geese (3)	Oct. 31-Jan. 25 &	6	12
	Feb. 21-Mar. 10	6	12
Large Canada geese (4)	Oct. 31-Jan. 25	1	2
White-fronted Geese	Oct. 18-Jan. 25	4	8
Light Geese	Oct. 18-Jan. 25	6	12
Brant			
North Zone	Nov. 1-Nov. 30	2	4
South Zone	Nov. 8-Dec. 7	2	4
Colorado			
Ducks:		7	14
Scaup	Sept. 27-Oct. 12 &	2	4
	Oct. 29-Jan. 6	2	4
Other Ducks	Sept. 27-Oct. 12 &		
	Oct. 29-Jan. 25		
Coots	Same as for Other Ducks	25	25

	Season Dates	Limits	
		Bag	Possession
Colorado (cont.)			
Dark Geese	Sept. 27-Oct. 3 &	3	6
	Oct. 29-Jan. 25	3	6
Light Geese	Same as for Dark Geese	4	8
Idaho			
Ducks:		7	14
Zone 1:			
Scaup	Oct. 25-Jan. 16	2	4
Other Ducks	Oct. 4-Jan. 16		
Zone 2	Same as Zone 1		
Zone 3:			
Scaup	Oct. 11-Jan. 23	2	4
Other Ducks	Nov. 1-Jan. 23		
Coots	Same as for Other Ducks	25	25
Geese:			
Zone 1	Oct. 4-Jan. 16	4	8
Zone 2	Oct. 11-Jan. 23	4	8
Zone 3	Same as for Zone 2	3	6
Zone 4 (5)	Same as for Zone 1	4	8
Zone 5	Same as for Zone 1	4	8
Montana			
Ducks		7	14
Scaup	Oct. 4-Dec. 28		
Other Ducks	Oct. 4-Jan. 16		
Coots	Same as for Other Ducks	25	25
Geese (6):			
Dark	Oct. 4-Jan. 16	4	8
Light	Oct. 4-Jan. 16	6	12
Nevada			
Ducks:		7	14
Lincoln & Clark Counties:			
Scaup	Nov. 1-Jan. 23	2	4
Other Ducks	Oct. 11-Jan. 23		
Rest of State:			
Scaup	Nov. 1-Jan. 23	2	4
Other Ducks	Oct. 11-Jan. 24		
Coots and moorhens	Same as for Other Ducks	25	25
Dark Geese:			
Lincoln & Clark Counties	Oct. 25-Jan. 25	3	6
Rest of State	Oct. 25-Jan. 25	3	6
Light Geese:			
Lincoln & Clark Counties	Oct. 25-Jan. 25	3	6
Rest of State (7)	Oct. 25-Jan. 25	3	6
New Mexico			
Ducks (8)		7	14
Scaup	Nov. 1-Jan. 25	2	4
Other Ducks	Oct. 13-Jan. 25		

	Season Dates	Limits	
		Bag	Possession
New Mexico (cont.)			
Coots	Same as for Other Ducks	12	24
Moorhens and gallinules	Same as for Other Ducks	12	24
Dark Geese:			
North Zone	Sept. 20-Oct. 5 &	3	6
	Oct. 27-Jan. 25	3	6
South Zone	Oct. 11-Jan. 25	2	4
Light Geese:			
North Zone	Same as Dark Geese	1	2
South Zone	Same as Dark Geese	1	2
Oregon			
Ducks:		7	14
Zone 1:			
Columbia Basin Unit:			
Scaup	Nov. 1-Jan. 25	2	4
Other Ducks	Oct. 11-Oct. 26 & Oct. 29-Jan. 25		
Rest of Zone 1	Same as for Columbia Basin Unit		
Zone 2:			
Scaup	Oct. 11-Nov. 30 &	2	4
	Dec. 3-Jan. 6	2	4
Other Ducks	Oct. 11-Nov. 30 & Dec. 3-Jan. 25		
Coots	Same as for Other Ducks	25	25
Geese:			
Northwest General Goose Zone:			
Dark Geese	Oct. 11-Oct. 26 &	4	8
	Nov. 6-Jan. 25	4	8
Small Canada Geese (3)		1	2
Light Geese	Same as for Dark Geese	6	12
Northwest Special Permit Zone (9):			
Dark Geese	Oct. 18-Nov. 2 &	4	8
	Nov. 15-Jan. 11 &	4	8
	Feb. 7-Mar. 1	4	8
Dusky Canada geese		1 per season	
Small Canada geese (3)		2	4
Light Geese	Same as for Dark Geese	4	8
Southwest General Zone:			
Dark Geese	Oct. 11-Nov. 30 &	4	8
	Dec. 13-Jan. 25	4	8
Light Geese	Same as for Dark Geese	6	12
South Coast Zone:			
Dark Geese	Oct. 4-Oct. 26 &	4	8
	Nov. 23-Jan. 25 &	4	8
	Feb. 21-Mar. 10	4	8
Light Geese	Oct. 4-Oct. 26 &	6	12
	Nov. 23-Jan. 25	6	12
Harney, Lake, and Malheur County Zone:			
Dark Geese	Oct. 11-Nov. 30 &	4	8
	Dec. 13-Jan. 25	4	8
Small Canada geese		1	2

	Season Dates	Limits	
		Bag	Possession
Oregon (cont.)			
White-fronted geese:			
Lake County		1	2
Rest of Zone		4	8
Light Geese	Same as Dark Geese	6	12
Klamath County Zone:			
Dark Geese	Oct. 11-Nov. 30 &	4	8
	Dec. 21-Jan. 25 &	4	8
Small Canada geese		1	2
White-fronted geese (special season)	Feb. 21-Mar. 10	1	2
Light Geese	Oct. 11-Nov. 30 &	4	8
	Dec. 21-Jan. 25 &	4	8
	Feb. 21-Mar. 10	3	6
Eastern Zone:			
Dark Geese	Oct. 11-Oct. 26 &	4	8
	Nov. 8-Jan. 25	4	8
Small Canada geese		1	2
Light Geese	Same as Dark Geese	6	12
Tillamook County (9):			
Dark Geese	Nov. 29-Mar. 1	2	4
Light Geese	Nov. 29-Mar. 1	4	8
Brant	Nov. 8-Nov. 23	2	4
Utah (10)			
Ducks:		7	14
Zone 1:			
Scaup	Oct. 4-Dec. 28	2	4
Other Ducks	Oct. 4-Jan. 17		
Zone 2	Same as for Zone 1		
Coots	Same as for Other Ducks	25	25
Geese:			
Light:			
North Goose Zone	Oct. 25-Jan. 17 &	10	20
	Feb. 18-Mar. 10	10	20
Rest of State	Oct. 13-Jan. 17 &	10	20
	Mar. 2-Mar. 10	10	20
Dark:			
North Goose Zone	Oct. 4-Jan. 17	3	6
Rest of State	Oct. 4-Oct. 16 &	3	6
	Oct. 25-Jan. 25	3	6
Washington			
Ducks:		7	14
East Zone:			
Scaup	Nov. 1-Jan. 25	2	4
Other Ducks	Oct. 11-Oct 15 & Oct. 18-Jan. 25		
West Zone (11)	Same as the East Zone		
Coots	Same as for Other Ducks	25	25

	Season Dates	Limits	
		Bag	Possession
Washington (cont.)			
Geese:			
Management Area 1 (12):		4	8
Light Geese	Oct 11-Jan. 25		
Dark Geese	Oct 11-Oct. 23 & Nov. 1-Jan. 25		
Management Area 2A (13)	Nov. 8-Nov. 23 &	4	8
	Dec. 3-Dec. 24 &	4	8
	Dec. 27-Jan. 25	4	8
Dusky Canada geese		1 per season	
Late-Season Canada Geese	Feb. 7-Mar. 7	4	8
Dusky Canada geese		1 per season	
Management Area 2B (13)	Oct. 11-Jan. 10	4	8
Dusky Canada geese		1 per season	
Management Areas 3 (12)	Oct. 11-Oct. 23 &	4	8
	Nov. 1-Jan. 25	4	8
Management Areas 4 & 5 (12)	Oct. 11-Oct. 13 &	4	8
	Oct. 18-Jan. 25	4	8
Brant (14):			
Skagit County	Jan. 15-Jan. 25	2	4
Pacific County	Jan. 10-Jan. 25	2	4
Wyoming			
Ducks:		7	14
Snake River Zone:			
Scaup	Sept. 27-Dec. 21	2	4
Other Ducks	Sept. 27-Jan. 9		
Balance of State Zone	Same as Snake River Zone		
Coots	Same as for Other ducks	25	25
Dark Geese:	Sept. 27-Jan. 1	6	6

(1) In Arizona, the daily limit may include no more than either 2 hen mallards or 2 Mexican-like ducks, or 1 of each; and not more than 4 hen mallards and Mexican-like ducks, in the aggregate, may be in possession.
(2) In Arizona, in Yuma County, La Paz County, Game Management Units 13B, 15, and that portion of Unit 16 lying within Mohave County, the bag and possession limits are 3 and 6 for Canada geese and 4 and 8 for light geese, respectively.
(3) In California and Oregon, small Canada geese are Cackling and Aleutian Canada geese.
(4) In California, large Canada geese are Western and Lesser Canada geese.
(5) In Idaho, the season on light geese is closed in Fremont and Teton Counties.
(6) In Montana, check State regulations for special seasons/exceptions in Freezeout Lake WMA; Canyon Ferry; Flathead; Deer Lodge County; and Missoula County.
(7) In Nevada, there is no open season on light geese in Ruby Valley within Elko and White Pine Counties.
(8) In New Mexico, the daily bag limit consists of no more than 7 mallards (of which only 2 may be hen mallards), 2 redheads, 2 scaup (when open), and 1 northern pintail.
(9) In Oregon, the Northwest Special Permit Zone is closed to all goose hunting, except for designated areas. See State regulations for specific boundary descriptions, times, days, and other conditions of the special permit season.
(10) In Utah, the shooting hours are 8:00 a.m. to sunset on October 6 in Cache, Salt Lake, Davis, Weber, and Box Elder Counties.
(11) In Washington, the daily bag limit in the West Zone may include no more than 4 scoters and 4 oldsquaws, with the possession limit twice the daily bag limit. The daily bag and possession limit, and the season limit, for harlequins is 1.

(12) In Washington, in State Goose Area 4, hunting is only on Saturdays, Sundays, Wednesdays, and certain holidays. In State Goose Areas 1, 3, and 5, hunting is everyday. See State regulations for details, including shooting hours.
(13) In Washington, see State regulations for specific dates and conditions of permit hunts and closures for Canada geese.
(14) In Washington, brant may be hunted in Skagit and Pacific Counties only; see State regulations for specific dates.

(f) Youth Waterfowl Hunting Days

The following seasons are open only to youth hunters. Youth Hunters must be accompanied into the field by an adult at least 18 years of age. This adult can not duck hunt but may participate in other open seasons.

Definition
Youth Hunters: Includes youths 15 years of age or younger.
NOTE: The following seasons are in addition to the seasons published previously in the August 29, 2008 Federal Register (73 FR 51088). Bag and possession limits will conform to those set for the regular season.

	Season Dates
ATLANTIC FLYWAY (9)	
Connecticut	
Ducks, mergansers, coots, and geese	Oct. 11 & 13
* * * * *	
Florida	
Ducks, mergansers, coots, moorhens, and geese (9)	Jan. 31 & Feb. 1
* * * * *	
Maryland	
Ducks, coots, snow geese, Canada geese, sea ducks, and brant (10)	Nov. 1
Massachusetts	
Ducks, mergansers, coots, and geese	Oct. 11 & 13
* * * * *	
North Carolina	
Ducks, mergansers, Canada geese (11), tundra swans (12), and coots	Jan. 31
* * * * *	
South Carolina	
Ducks, geese, mergansers, and coots	Jan. 31 & Feb. 1
* * * * *	
Virginia	
Ducks, mergansers, coots, moorhens, gallinules, tundra swans (12) and Canada geese (13)	Oct. 25

	Season Dates
* * * * *	
MISSISSIPPI FLYWAY (9)	
* * * * *	
Arkansas	
Ducks, geese, mergansers, coots, moorhens, and gallinules	Jan. 31 & Feb. 1
Illinois	
Ducks, geese, mergansers, and coots	
North Zone	Oct. 11 & 12
Central Zone	Oct. 18 &19
South Zone	Nov. 15 & 16
Indiana	
Ducks, mergansers, coots, moorhens, gallinules, and geese:	
North Zone	Oct. 11 & 12
South Zone	Oct. 18 & 19
Ohio River Zone	Oct. 25 & 26
* * * * *	
Louisiana	
Ducks, mergansers, coots, moorhens, gallinules, and geese:	
West Zone	Nov. 1 & 2
East Zone	Nov. 8 & 9
* * * * *	
Mississippi	
Ducks, mergansers, coots, moorhens, gallinules, and geese	Jan. 31 & Feb. 1
Missouri	
Ducks, coots, and geese:	
North Zone	Oct. 18 & 19
Middle Zone	Oct. 25 & 26
South Zone	Nov. 22 & 23
Ohio	
Ducks, mergansers, coots, moorhens, gallinules, and geese	Oct. 4 & 5
Tennessee	
Ducks, mergansers, and coots:	
Reelfoot Zone	Feb. 7 & 8
Remainder of State	Jan. 31 & Feb. 1
* * * * *	
CENTRAL FLYWAY	
* * * * *	

	Season Dates
Kansas (5)	
Ducks, dark geese, mergansers and coots:	
High Plains	Sept. 27 & 28
Low Plains:	
Early Zone	Oct. 4 & 5
Late Zone	Oct. 18 & 19
* * * * *	
Oklahoma	
Ducks, mergansers, coots, and geese:	
High Plains	Oct. 4 & 5
Low Plains:	
Zone 1	Oct. 11 & 12
Zone 2	Oct. 25 & 26
* * * * *	
Texas	
Ducks, mergansers, and coots:	
High Plains	Oct. 18 & 19
Low Plains:	
North Zone	Oct. 25 & 26
South Zone	Oct. 25 & 26
* * * * *	
PACIFIC FLYWAY	
* * * * *	
California	
Ducks, geese, brant, mergansers, coots, moorhens, and gallinules	
Northeastern Zone	Sept. 27 & 28
Colorado River Zone	Jan. 31 & Feb. 1
Southern Zone	Jan. 31 & Feb. 1
Southern San Joaquin Valley	Jan. 31 & Feb. 1
Balance-of-State Zone	Jan. 31 & Feb. 1
* * * * *	
Nevada	
Ducks, geese, mergansers, coots, moorhens, and gallinules	
Lincoln and Clark Counties	Jan. 31 & Feb. 1
Rest of State	Sept. 27
* * * * *	
Utah	
Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 27

* * * * *

* * * * *

(5) In Kansas, the adult accompanying the youth and nonresident youth, must be licensed and possess state and federal duck stamps as required by state or federal regulation to hunt waterfowl.

* * * * *

(9) In the States of Connecticut, Delaware, Florida, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and Wisconsin, the youth hunt daily bag limit is 2 scaup.
(10) In Maryland, the adult must also possess a valid Maryland hunting license or be exempt from hunting license requirements.
(11) In North Carolina, the daily bag limit in the Northeast Hunt Zone may not include Canada geese or tundra swans except by permit.
(12) In North Carolina and Virginia, the daily bag limit may not include tundra swans except by permit.
(13) In Virginia, the daily bag limit for Canada geese is 2.

4. Section 20.106 is amended by adding the entries for the following States in alphabetical order to read as follows:

§20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting and Hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Area descriptions were published in the August 27, 2008 (73 FR 50678) Federal Register.

Note: The following seasons are in addition to the seasons published previously in the August 29, 2008 Federal Register (73 FR 51088).

	Season Dates	Limits	
		Bag	Possession
CENTRAL FLYWAY			
* * * * *			
Oklahoma (1)	Oct. 25-Jan. 25	3	6
* * * * *			
Texas (1):			
Zone A		Nov. 8-Feb. 8	36
Zone B		Nov. 28-Feb. 8	36
Zone C		Dec. 20-Jan. 25	24
* * * * *			

(1) Each person participating in the regular sandhill crane seasons must have a valid sandhill crane hunting permit and/or a State-issued Harvest Information Survey Program (HIP) certification for game bird hunting in their possession while hunting.

* * * * *

5. Section 20.107 is revised to read as follows:

§20.107 Seasons, limits, and shooting hours for swans.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Hunting is by State permit only.

NOTE: Successful permittees must immediately validate their harvest by that method required in State regulations.

	Season Dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
North Carolina	Nov. 8-Jan. 31	1 tundra swan per season	
Virginia	Dec. 1-Jan 31	1 tundra swan per season	
CENTRAL FLYWAY (1)			
Montana	Oct. 4-Jan. 8	1 tundra swan per season	
North Dakota	Oct. 4-Jan. 2	1 tundra swan per season	
South Dakota	Oct. 4-Dec. 21	1 tundra swan per permit	
PACIFIC FLYWAY (1)(2)			
Montana (3)	Oct. 11-Dec. 1	1 swan per season	
Nevada (4)(5)	Oct. 25-Jan. 4	2 swans per season	
Utah (3)(5)	Oct. 4-Dec. 14	1 swan per season	

(1) See State regulations for description of area open to swan hunting.
(2) Any species of swan may be taken.
(3) All harvested swans and tags must be checked or registered within 3 days of harvest.
(4) All harvested swans and tags must be checked or registered within 5 days of harvest.
(5) Harvests of trumpeter swans are limited to 5 in Nevada and 10 in Utah. When it has been determined that the quota of trumpeter swans allotted to Nevada and Utah will have been filled, the season for taking of any swan species in the respective State will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

6. Section 20.109 is amended by adding the entries for the following States in alphabetical order to read as follows:

§20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Hawking hours are one-half hour before sunrise until sunset except as otherwise restricted by State regulations. Area descriptions were published in the August 27, 2008 (73 FR 50678) and a August 29, 2008 (73 FR 51124) Federal Registers.

Limits: The daily bag limit may include no more than 3 migratory game birds, singly or in the aggregate. The possession limit is twice the daily bag limit. These limits apply to falconry during both regular hunting seasons and extended falconry seasons -- unless further restricted by State regulations. The falconry bag and possession limits are not in addition to regular season limits. Unless otherwise specified, extended falconry for ducks does not include sea ducks within the special sea duck areas. Although many States permit falconry during the gun seasons, only extended falconry seasons are shown below. Please consult State regulations for details.

NOTE: The following seasons are in addition to the seasons published previously in the August 29, 2008 Federal Register (73 FR 51088).

	Extended Falconry Dates
ATLANTIC FLYWAY	
Delaware	
* * * * *	
Ducks, mergansers, and coots	Jan. 27-Mar. 10
Brant	Feb. 2-Mar. 10
Florida	
* * * * *	
Ducks, mergansers, light geese, and coots	Oct. 30-Nov. 12 & Feb. 2-Feb. 25
Georgia	
* * * * *	
Ducks, mergansers, gallinules, coots, and sea ducks	Dec. 1-Dec. 5 & Jan. 26-Feb. 13
Maine	
Ducks, mergansers, and coots (4):	
North Zone	Dec. 10-Jan. 31
South Zone	Jan. 7-Feb. 28

	Extended Falconry Dates
Maryland	
* * * * *	
Ducks	Feb. 2-Mar. 10
Brant	Jan. 25-Mar. 10
Massachusetts	
Ducks, mergansers, sea ducks, and coots	Oct. 6-Oct. 10 & Jan. 26-Feb. 6
New Hampshire	
Ducks, mergansers, and coots:	
Inland Zone	Nov. 3-Nov. 22 & Dec. 21-Jan. 14
Coastal Zone	Jan. 25-Mar. 10
New Jersey	
Woodcock:	
North Zone	Oct. 1-Oct. 15 & Nov. 9-Jan. 15
South Zone	Oct. 1-Nov. 7 & Nov. 23-Dec. 25 & Jan. 4-Jan. 15
Ducks, mergansers, coots, and brant:	
North Zone	Jan. 2-Feb. 8
South Zone	Jan. 9-Feb. 15
Coastal Zone	Jan. 25-Feb. 28
New York	
Ducks, mergansers and coots:	
Long Island Zone	Nov. 1-Nov. 26 & Jan. 26-Feb. 13
Northeastern Zone	Oct. 1-Oct. 3 & Oct. 14-Oct. 24 & Dec. 14-Jan. 13
Southeastern Zone	Oct. 1-Oct. 10 & Oct. 20-Nov. 7 & Dec. 29-Jan. 13
Western Zone	Oct. 1-Oct. 24 & Dec. 8-Dec. 26 & Jan. 12-Jan. 13

	Extended Falconry Dates
North Carolina	
* * * * *	
Ducks, mergansers and coots	Oct. 18-Nov. 1 & Feb. 2-Feb. 14
Pennsylvania	
* * * * *	
Ducks, mergansers, and coots:	
North Zone	Nov. 3-Nov. 15 & Jan. 10-Jan. 17 & Feb. 14-Mar. 10
South Zone	Oct. 20-Nov. 14 & Feb. 19-Mar. 10
Northwest Zone	Dec. 1-Dec. 13 & Jan. 10-Jan. 17 & Feb. 14-Mar. 10
Lake Erie Zone	Jan. 24-Mar. 10
Canada Geese:	
SJBP Zone	Feb. 27-Mar. 10
AP Zone	Feb. 2-Mar. 10
RP Zone	Mar. 9-Mar. 10
South Carolina	
Ducks, mergansers, and coots	Oct. 24-Nov. 25 & Dec. 1-Dec. 5 & Dec. 7-Dec. 11
Virginia	
* * * * *	
Moorhens and gallinules	Dec. 1-Dec. 5 & Jan. 26-Feb. 21
Ducks, mergansers, and coots	Dec. 1-Dec. 5 & Jan. 26-Feb. 21
Canada Geese:	
Eastern (AP) Zone	Dec. 1-Dec. 18 & Jan. 26-Feb. 14
Western Zone	Dec. 1-Dec. 14
Brant	Oct. 31-Nov. 14 & Jan. 30-Mar. 10

	Extended Falconry Dates
MISSISSIPPI FLYWAY	
Arkansas	
Ducks, mergansers, and coots	Dec. 2-Dec. 5 & Jan. 26-Feb. 15
* * * * *	
Illinois	
* * * * *	
Ducks, mergansers, and coots	Feb. 11-Mar. 10
Indiana	
* * * * *	
Ducks, mergansers, and coots:	
North Zone	Sept. 27-Sept. 30 & Feb. 14-Mar. 10
South Zone	Oct. 18-Oct. 24 & Feb. 17-Mar. 10
Ohio River Zone	Oct. 25-Oct. 31 & Feb. 17-Mar. 10
Iowa	
Ducks, mergansers, and coots	
North Zone	Dec. 15-Jan. 28
South Zone	Dec. 15-Jan. 28
Canada Geese:	
North Goose Zone	Jan. 12-Jan. 13
South Goose Zone	Jan. 12-Jan. 13
White-fronted Geese:	
North Goose Zone	Dec. 8-Jan. 11
South Goose Zone	Dec. 8-Jan. 11
Kentucky	
Ducks, mergansers, and coots	Nov. 5-Nov. 26 & Jan. 26-Feb. 1
Canada Geese:	
Western Goose Zone:	
Fulton County	Nov. 5-Nov. 22
Rest of Zone	Nov. 5-Nov. 22
Pennyroyal/Coalfield Zone	Nov. 5-Nov. 22
Rest of State	Nov. 5-Nov. 22
White-fronted geese, brant, and light geese	Nov. 5-Nov. 22

	Extended Falconry Dates
Louisiana	
Rails and moorhens	Nov. 1-Nov. 7 & Jan. 1-Jan. 30
Ducks	
West Zone	Nov. 1-Nov. 7 & Dec. 1-Dec. 12 & Jan. 19-Jan. 30
East Zone	Nov. 1-Nov. 14 & Dec. 1-Dec. 12 & Jan. 26-Jan. 30
Michigan	
Ducks, mergansers, coots, and moorhens	Jan. 25-Mar. 10
Minnesota	
* * * * *	
Ducks, mergansers, coots, moorhens, and gallinules	Dec. 3-Jan. 17
Mississippi	
Mourning Doves	Nov. 22-Nov. 30 & Jan. 17-Feb. 13
Ducks, mergansers and coots	Feb. 7-Mar. 7
Missouri	
* * * * *	
Ducks, mergansers, and coots:	
Statewide	Sept. 6-Sept. 21 & Feb. 10-Mar. 10
Ohio	
Ducks, mergansers, and coots	Sept. 1-Sept. 16 & Oct. 4-Oct. 5 & Jan. 13-Feb. 10
Tennessee	
* * * * *	
Ducks, mergansers, and coots	Sept. 18-Oct. 25

	Extended Falconry Dates
Wisconsin	
Rails, snipe, moorhens, and gallinules	
North Duck Zone	Sept. 1-Sept. 26 & Nov. 26-Dec. 16
South Duck Zone	Sept. 1-Oct. 3 & Oct. 13-Oct. 17 & Dec. 8-Dec. 16
Woodcock	Sept. 1-Sept. 19 & Nov. 4-Dec. 16
Ducks, mergansers, and coots	Sept. 20-Sept. 21 & Jan 9 - Feb 22
CENTRAL FLYWAY	
Kansas	
Ducks, mergansers, and coots:	
Low Plains:	
Early Zone and Late Zone	Feb. 25-Mar. 10
Montana (2)	
Ducks, mergansers, and coots (1)	Sept. 24-Oct. 3
* * * * *	
New Mexico	
* * * * *	
Ducks and coots	Sept. 20-Sept. 28
Sandhill cranes	
Regular Season Area	Oct. 17-Oct. 30
Estancia Valley Area	Nov. 10-Dec. 30
* * * * *	
Oklahoma	
Ducks, mergansers, and coots:	
Low Plains:	
Zones 1 and 2	Feb. 14-Feb. 28
South Dakota	
Ducks, mergansers, and coots (1)	
High Plains	Sept. 4-Sept. 11

	Extended Falconry Dates
South Dakota (cont.)	
Low Plains	
North Zone	Sept. 4-Sept. 19 & Sept. 22-Sept. 26 & Dec. 10-Dec. 19
Middle Zone	Sept. 4-Sept. 19 & Sept. 22-Sept. 26 & Dec. 10-Dec. 19
South Zone	Sept. 4-Sept. 19 & Sept. 22-Oct. 6
Texas	
* * * * *	
Ducks, mergansers, and coots:	
Low Plains:	
North Zone and South Zone	Jan. 26-Feb. 9
* * * * *	
PACIFIC FLYWAY	
Arizona	
* * * * *	
Ducks and mergansers:	
North Zone	Sept. 29-Oct. 2
South Zone	Jan. 26-Jan. 29
California	
Ducks, mergansers, and coots:	
Colorado River Zone	Jan. 26-Jan. 29
Southern Zone	Jan. 26-Feb. 1
Balance-of-State Zone	Jan. 26-Feb. 1
Southern San Joaquin Zone	Jan. 26-Jan. 28
Canada Geese and White-fronted Geese:	
Northeastern Zone	Jan. 19-Jan. 23
Southern Zone (5)	Same as for Ducks
Balance-of-State Zone (6	Same as for Ducks
Southern San Joaquin Zone	Closed
Brant	
Northern Zone	Oct. 18-Oct. 31& Dec. 1-Feb. 1
Southern Zone	Oct. 18-Nov. 7 & Dec. 8-Feb. 1

	Extended Falconry Dates
California (cont.)	
Light Geese:	
Northeastern Zone	Jan. 19-Jan. 23
Southern Zone (5	Same as for Ducks
Balance-of-State Zone (6)	Same as for Ducks
Southern San Joaquin Zone	Closed
* * * * *	
New Mexico	
* * * * *	
Rails	Nov. 29-Jan. 4
* * * * *	
Utah	
* * * * *	
Ducks, mergansers, coots, geese, snipe	Sept. 27
* * * * *	
Washington	
Mourning doves	Oct. 1-Dec. 16
* * * * *	

* * * * *

(2) In Montana, the bag limit is 2 and the possession limit is 6.

* * * * *

(4) In Maine, the daily bag and possession limits for black ducks are 1 and 2, respectively.
(5) In California, the falconry season for geese is concurrent with the regular season for white geese in the Imperial County special management area.
(6) In California, the falconry season for geese is concurrent with the regular season for small Canada geese in Del Norte and Humbolt counties.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[FWS–R9–MB–2008–0032; 91200–1231–9BPP–L2]

RIN 1018–AV62

Migratory Bird Hunting; Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2008–09 Late Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special late-season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands. This rule responds to tribal requests for U.S. Fish and Wildlife Service (hereinafter Service or we) recognition of their authority to regulate hunting under established guidelines. This rule allows the establishment of season bag limits and, thus, harvest at levels compatible with populations and habitat conditions.

DATES: This rule takes effect on September 27, 2008.

ADDRESSES: You may inspect comments on the special hunting regulations and tribal proposals during normal business hours in room 4107, Arlington Square Building, 4501 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703/358–1967).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Department of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In a proposed rule published in the August 15, 2008, **Federal Register** (73 FR 48098), we proposed special migratory bird hunting regulations for the 2008–09 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines respond to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal members and nonmembers, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10–September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada.

In the May 28, 2008, **Federal Register** (73 FR 30712), we requested that tribes desiring special hunting regulations in the 2008–09 hunting season submit a proposal including details on:

(a) Harvest anticipated under the requested regulations;

(b) Methods that would be employed to measure or monitor harvest (such as bag checks, mail questionnaires, etc.);

(c) Steps that would be taken to limit level of harvest, where it could be shown that failure to limit such harvest would adversely impact the migratory bird resource; and

(d) Tribal capabilities to establish and enforce migratory bird hunting regulations.

No action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which an Indian reservation is located. We have successfully used the guidelines since the 1985–86 hunting season. We finalized the guidelines beginning with the 1988–89 hunting season (August 18, 1988, **Federal Register** [53 FR 31612]).

Although the August 15 proposed rule included generalized regulations for both early- and late-season hunting, this rulemaking addresses only the late-season proposals. Early-season proposals were addressed in a final rule published in the September 4, 2008, **Federal Register** (73 FR 51704). As a general rule, early seasons begin during September each year and have a primary emphasis on such species as mourning and white-winged dove. Late seasons begin about September 24 or later each year and have a primary emphasis on waterfowl.

Status of Populations

In the August 15 proposed rule and September 4 final rule, we reviewed the status for various populations for which seasons were proposed. This information included brief summaries of the May Breeding Waterfowl and Habitat Survey; population status reports for blue-winged teal, sandhill cranes, woodcock, mourning doves, white-winged doves, white-tipped doves, and band-tailed pigeons; and the status and harvest of waterfowl. The tribal seasons established below are commensurate with the population status.

For more detailed information on methodologies and results, complete copies of the various reports are available at the address indicated under **ADDRESSES** or from our Web site at *http://www.fws.gov/migratorybirds/reports/reports.html*.

Comments and Issues Concerning Tribal Proposals

For the 2008–09 migratory bird hunting season, we proposed regulations for 29 tribes and/or Indian groups that followed the 1985 guidelines and were considered appropriate for final rulemaking. Some of the proposals submitted by the tribes had both early- and late-season elements. However, as noted earlier, only those with late-season proposals are included in this final rulemaking; 12 tribes have proposals with late seasons. The comment period for the proposed rule, published on August 15, 2008, closed on August 25, 2008.

We received one comment regarding the notice of intent published on May 28, 2008, which announced rulemaking on regulations for migratory bird hunting by American Indian tribal members, and the August 15 proposed rule. This comment was addressed in the September 4 final rule.

NEPA Consideration

NEPA considerations are covered by the programmatic document ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341).

In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the address indicated under the caption **ADDRESSES**.

In a notice published in the September 8, 2005, **Federal Register** (70 FR 53376), we announced our intent to develop a new Supplemental Environmental Impact Statement for the migratory bird hunting program. Public scoping meetings were held in the spring of 2006, and were detailed in a March 9, 2006, **Federal Register** notice (71 FR 12216).

Endangered Species Act Considerations

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *'' Consequently, we conducted consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion and may have caused modification of some regulatory measures previously proposed. The final frameworks reflect any modifications.

Our biological opinions resulting from this section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and MBM, at the address indicated under **ADDRESSES**.

Executive Order 12866

The Office of Management and Budget has determined that this rule is significant and has reviewed this rule under Executive Order 12866. OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

Regulatory Flexibility Act

The overall migratory bird hunting regulations have a significant economic impact on a substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, and 2008. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2008 Analysis was based on the 2006 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.2 billion at small businesses in 2008.

Copies of the Analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.fws.gov/migratorybirds/reports/reports.html* or at *http://www.regulations.gov*.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of our Migratory Bird Surveys and assigned control number 1018–0023 (expires 2/28/2011). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Alaska Subsistence Household Survey, an associated voluntary annual household survey used to determine levels of subsistence take in Alaska, and assigned control number 1018–0124 (expires 1/31/2010).

A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy

action and no Statement of Energy Effects is required.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration.

Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. Thus, in accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, by virtue of the tribal proposals process, we have consulted with all the tribes affected by this rule.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

■ Accordingly, part 20, subchapter B, chapter I of Title 50 of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

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

Authority: Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742a–j; Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

(Note: The following hunting regulations provided for by 50 CFR 20.110 will not appear in the Code of Federal Regulations because of their seasonal nature).

■ 2. Amend section 20.110 by revising paragraphs (a), (b), (f), (j), (m), (r), (s), and (u) and by adding paragraphs (v) through (x) to read as set forth below. (Current § 20.110 was published at 73 FR 51707, September 4, 2008.)

§ 20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

(a) Colorado River Indian Tribes, Parker, Arizona (Tribal Members and Nontribal Hunters)

Doves

Season Dates: Open September 1, through September 15, 2008; then open November 15, through December 29, 2008.

Daily Bag and Possession Limits: For the early season, daily bag limit is 10 mourning or white-winged doves, singly, or in the aggregate. For the late season, the daily bag limit is 10 mourning doves. Possession limits are twice the daily bag limits.

Ducks (Including Mergansers)

Season Dates: Open October 11, 2008, through January 25, 2009.

Daily Bag and Possession Limits: Seven ducks, including two hen mallards, two redheads, two Mexican ducks, two goldeneye, two cinnamon teal, and one pintail. The seasons on canvasback and scaup are closed. The possession limit is twice the daily bag limit.

Coots and Common Moorhens

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots and common moorhens, singly or in the aggregate.

Geese

Season Dates: Open October 18, 2008, through January 25, 2009.

Daily Bag and Possession Limits: Three geese, including no more than three dark (Canada) geese and three white (snow, blue, Ross's) geese. The possession limit is six dark geese and six white geese.

General Conditions: A valid Colorado River Indian Reservation hunting permit is required for all persons 14 years and older and must be in possession before taking any wildlife on tribal lands. Any person transporting game birds off the Colorado River Indian Reservation must have a valid transport declaration form. Other tribal regulations apply, and may be obtained at the Fish and Game Office in Parker, Arizona.

(b) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Tribal Members and Nontribal Hunters)

Tribal Members Only

Ducks (Including Mergansers)

Season Dates: Open September 1, 2008, through March 9, 2009.

Daily Bag and Possession Limits: The Tribe does not have specific bag and possession restrictions for Tribal members. The season on harlequin duck is closed.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

Nontribal Hunters

Ducks (Including Mergansers)

Scaup Season Dates: Open October 4, 2008, through December 28, 2008.

Season Dates: Open October 4, 2008, through January 18, 2009.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, two scaup (when open), and two redheads. The season on canvasback is closed. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: The daily bag and possession limit is 25.

Geese

Dark Geese

Season Dates: Open September 27, 2008, through January 11, 2009.

Daily Bag and Possession Limits: Four and eight geese, respectively.

Light Geese

Season Dates: Open September 27, 2008, through January 11, 2009.

Daily Bag and Possession Limits: 10 and 20 geese, respectively.

Youth Waterfowl Hunt

Season Dates: September 27–28, 2008.

Daily Bag and Possession Limits: Same as ducks.

General Conditions: Tribal members and Nontribal hunters must comply with all basic Federal migratory bird hunting regulations contained in 50 CFR part 20 regarding manner of taking. In addition, shooting hours are sunrise to sunset, and each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Confederated Salish and Kootenai Tribes also apply on the reservation.

* * * * *

(f) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Nontribal Hunters)

Nontribal Hunters on Reservation

Ducks

Season Dates: Open September 27, 2008, through January 25, 2009. During this period, days to be hunted are specified by the Kalispel Tribe as weekends, holidays, and for a continuous period in the months of October and November, not to exceed 107 days total. Nontribal hunters should contact the Tribe for more detail on hunting days.

Daily Bag and Possession Limits: seven ducks, including no more than two female mallards, one pintail, and two redheads. The seasons on canvasback and scaup are closed. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 1, 2008, through September 14, for the early-season, and open October 1, through January 31, 2009, for the late-season. During this period, days to be hunted are specified by the Kalispel Tribe. Nontribal hunters should contact the Tribe for more detail on hunting days.

Daily Bag and Possession Limits: 5 Canada geese for the early season, and 3 light geese and 4 dark geese, for the late season. The daily bag limit is 2 brant and is in addition to dark goose limits.

Tribal Hunters Within Kalispel Ceded Lands

Ducks

Season Dates: Open September 1, 2008, through January 31, 2009.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 4 scaup, and 2 redheads. The seasons on canvasbacks and pintail are closed. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 1, 2008, through January 31, 2009.

Daily Bag Limit: 3 light geese and 4 dark geese. The daily bag limit is 2 brant and is in addition to dark goose limits.

General: Tribal members must possess a validated Migratory Bird Hunting and Conservation Stamp and a tribal ceded lands permit.

* * * * *

(j) Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Nontribal Hunters)

Tribal Members

Ducks, Mergansers and Coots

Season Dates: Open September 20, 2008, through March 10, 2009.

Daily Bag and Possession Limits: Five ducks, including no more than five mallards (only one of which may be a hen), two scaup, one mottled duck, two redheads, two wood ducks, one canvasback, and one pintail. Coot daily bag limit is 15. Merganser daily bag limit is five, including no more than two hooded merganser. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open October 11, 2008, through March 10, 2009.

Daily Bag and Possession Limits: Three and six, respectively.

White-Fronted Geese

Season Dates: Open October 4, 2008, through March 10, 2009.

Daily Bag and Possession Limits: Two and four, respectively.

Light Geese

Season Dates: Open October 11, 2008, through March 10, 2009.

Daily Bag and Possession Limits: 20 and 40, respectively.

Nontribal Hunters

Ducks (Including Mergansers and Coots)

Season Dates: Open October 11, 2008, through January 15, 2009.

Daily Bag and Possession Limits: Five ducks, including no more than five mallards (only one of which may be a hen), two scaup, one mottled duck, one canvasback, two redheads, two wood ducks, and one pintail. Coot daily bag limit is 15. Merganser daily bag limit is five, including no more than two hooded mergansers. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open October 25, 2008, through February 8, 2009.

Daily Bag and Possession Limits: Three and six, respectively.

White-Fronted Geese

Season Dates: Open October 11, 2008, through December 21, 2008.

Daily Bag and Possession Limits: One and two, respectively.

Light Geese

Season Dates: Open October 11, 2008, through January 11, 2009, and open February 26, through March 10, 2009.

Daily Bag and Possession Limits: 20 and 40, respectively.

General Conditions: All hunters must comply with the basic Federal migratory bird hunting regulations in 50 CFR part 20, including the use of steel shot. Nontribal hunters must possess a validated Migratory Bird Hunting and Conservation Stamp. The Lower Brule Sioux Tribe has an official Conservation Code that hunters must adhere to when hunting in areas subject to control by the Tribe.

* * * * *

(m) Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nontribal Hunters)

Band-Tailed Pigeons

Season Dates: Open September 1, through September 30, 2008.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

Mourning Doves

Season Dates: Open September 1, through September 30, 2008.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Ducks (Including Mergansers)

Scaup Season Dates: Open September 27, through December 21, 2008.

Season Dates: Open September 27, 2008, through January 11, 2009.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, two scaup (when open), and two redheads. The season on canvasback is closed. The possession limit is twice the daily bag limit.

Coots and Common Moorhens

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots and moorhens, singly or in the aggregate. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open September 27, 2008, through January 11, 2009.

Daily Bag and Possession Limits: Four and eight geese, respectively.

General Conditions: Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Navajo Nation also apply on the reservation.

* * * * *

(r) Upper Skagit Indian Tribe, Sedro Woolley, Washington (Tribal Members Only)

Ducks

Season Dates: Open October 1, 2008, through February 28, 2009.

Daily Bag and Possession Limits: 15 and 20, respectively. The season on canvasbacks is closed.

Coots

Season Dates: Open October 15, 2008, through February 15, 2009.

Daily Bag and Possession Limits: 20 and 30, respectively.

Geese

Season Dates: Open October 15, 2008, through February 15, 2009.

Daily Bag and Possession Limits: The daily bag limits are seven geese and five brant. The possession limits for geese and brant are 10 and 7, respectively.

Mourning Dove

Season Dates: Open September 1, through December 31, 2008.

Daily Bag and Possession Limits: 12 and 15 mourning doves, respectively.

Tribal members must have the tribal identification and harvest report card on their person to hunt. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, except shooting hours would be one-half hour before official sunrise to one-half hour after official sunset.

(s) Wampanoag Tribe of Gay Head, Aquinnah, Massachusetts (Tribal Members Only)

Teal

Season Dates: Open October 13, 2008, through January 26, 2009.

Daily Bag Limit: Six teal.

Ducks

Season Dates: Open October 29, 2008, and through February 25, 2009.

Daily Bag Limit: Six ducks, including no more than two hen mallards, two black ducks, two mottled ducks, one fulvous whistling duck, four mergansers, three scaup, one hooded merganser, two wood ducks, one canvasback, two redheads, and one pintail. The season is closed for harlequin ducks.

Sea Ducks

Season Dates: Open October 13, 2008, and through February 27, 2009.

Daily Bag Limit: Seven ducks including no more than four of any one species (only one of which may be a hen eider).

Canada Geese

Season Dates: Open September 15, and through September 29, 2008, and open October 29, 2008, through February 25, 2009.

Daily Bag Limits: 5 Canada geese during the first period, 3 during the second.

Snow Geese

Season Dates: Open September 8, 2008, and through September 22, 2008, and open October 29, 2008, through February 25, 2009.

Daily Bag Limits: 15 snow geese.

Woodcock

Season Dates: Open October 13, and through November 28, 2008.

Daily Bag Limit: Three woodcock.

General Conditions: Shooting hours are one-half hour before sunrise to sunset. Nontoxic shot is required. Tribal members will observe all basic Federal migratory bird hunting regulations contained in 50 CFR.

* * * * *

(u) Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Nontribal Hunters)

Ducks (Including Mergansers)

Season Dates: Open September 27, through November 30, 2008.

Daily Bag and Possession Limits: The daily bag limit is seven, including no more than two hen mallards, one pintail, two redheads, and two scaup. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open September 27, through November 30, 2008.

Daily Bag and Possession Limits: Two and four, respectively.

General Conditions: Tribal and nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Jicarilla Tribe also apply on the reservation.

(v) Klamath Tribe, Chiloquin, Oregon (Tribal Members Only)

Ducks

Season Dates: Open October 4, 2008, through February 1, 2009.

Daily Bag and Possession Limits: 9 and 18 ducks, respectively.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 6 and 12 geese, respectively.

General: The Klamath Tribe provides its game management officers, biologists, and wildlife technicians with regulatory enforcement authority, and has a court system with judges that hear cases and set fines. Nontoxic shot is required. Shooting hours are one-half hour before sunrise to one-half hour after sunset.

(w) Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Nontribal Hunters)

Ducks

Scaup Season Dates: Open October 25, 2008, through January 16, 2009.

Season Dates: Open October 4, 2008, through January 16, 2009.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, two scaup (when open), and two redheads. The season on canvasback is closed. The possession limit is twice the daily bag limit.

Mergansers

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Five and ten mergansers, respectively.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open October 4, 2008, through January 16, 2009.

Daily Bag and Possession Limits: Four light geese and four dark geese. The possession limit is twice the daily bag limit.

Common Snipe

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

General Conditions: Nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must possess a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Other regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

(x) Stillaguamish Tribe of Indians, Arlington, Washington (Tribal Members Only)

Ducks (Including Mergansers)

Season Dates: Open October 1, 2008, through February 15, 2009.

Daily Bag and Possession Limits: 10 ducks, including no more than 7 mallards of which only 3 hen mallards, 3 pintail, 3 canvasback, 3 scaup, and 3 redheads. The possession limit is twice the daily bag limit.

Coot

Season Dates: October 1, 2008, through January 31, 2009.

Daily Bag and Possession Limits: 25 and 50, respectively.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 6 and 12, respectively.

Brant

Season Dates: Open October 1, 2008, through January 31, 2009.

Daily Bag and Possession Limits: Three and six, respectively.

Snipe

Season Dates: Open October 1, 2008, through January 21, 2009.

Daily Bag and Possession Limits: 10 and 20, respectively.

Tribal members hunting on lands under this proposal will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, which will be enforced by the Stillaguamish Tribal Law Enforcement. Tribal members are required to use steel shot or a nontoxic shot as required by Federal regulations.

Dated: September 18, 2008.

Lyle Laverty,

Assistant Secretary for Fish and Wildlife and Parks.

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 6456/P.L. 110–321

To provide for extensions of certain authorities of the Department of State, and for other purposes. (Sept. 19, 2008; 122 Stat. 3535)

S. 2450/P.L. 110–322

To amend the Federal Rules of Evidence to address the waiver of the attorney-client privilege and the work product doctrine. (Sept. 19, 2008; 122 Stat. 3537)

H.R. 5683/P.L. 110–323

Government Accountability Office Act of 2008 (Sept. 22, 2008; 122 Stat. 3539)

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