6–1–10 Tuesday
Vol. 75 No. 104 June 1, 2010

Pages 30267–30686

Federal Register

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register**, *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 75 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WHEN: Tuesday, June 8, 2010
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 75, No. 104

Tuesday, June 1, 2010

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service

Animal and Plant Health Inspection Service
PROPOSED RULES
Importation of Peppers From Panama, 30303–30305

Antitrust Division
NOTICES
National Cooperative Research and Production Act of 1993:
ASTM International, 30440
Recreational Off–Highway Vehicle Association, 30440

Centers for Disease Control and Prevention
NOTICES
Meetings:
Advisory Committee to the Director (ACD), Centers for Disease Control and Prevention–Ethics Subcommittee (ES), 30409–30410
Disease, Disability, and Injury Prevention and Control Special Interest Projects, 30409–30410

Centers for Medicare & Medicaid Services
NOTICES
Privacy Act; Systems of Records, 30411–30415

Coast Guard
RULES
Drawbridge Operation Regulations:
Fox River, Green Bay, WI, 30299
Newtown Creek, Dutch Kills, English Kills, and Their Tributaries, NY, Maintenance, 30299–30300
Root River, Racine, WI, 30300
Special Local Regulation for Marine Event:
Maryland Swim for Life, Chester River, Chestertown, MD, 30296–30299
PROPOSED RULES
Drawbridge Operation Regulations:
Perquimans River, Hertford, NC, 30305–30306

Commerce Department
See Foreign–Trade Zones Board
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Defense Department
See Navy Department
NOTICES
Defense Transportation Regulation, Part IV, 30385–30386

Election Assistance Commission
NOTICES
Meetings; Sunshine Act, 30386
Meetings; Sunshine Act:
Cancellation, 30386

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
PROPOSED RULES
Approvals and Promulgations of Air Quality Implementation Plans:
Connecticut; Determination of Attainment of 1997 Ozone Standard for Greater Connecticut Area, 30310–30313
NOTICES
Approvals of Petition for Exemption:
Hazardous Waste Disposal Injection Restrictions to Cabot Corp. Tuscola, Tuscola, IL, 30392–30393
Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfield, etc., 30393–30395
National Pollutant Discharge Elimination System (NPDES) Permit Requirements:
Municipal Sanitary Sewer, Satellite Collection Systems, etc.; Stakeholder Input, 30395–30401
National Primary Drinking Water Regulations:
Results of EPA Review of Existing Drinking Water Standards; Extension of Comment Period, 30401–30402
Teleconference Meeting and Public Comment:
National Environmental Justice Advisory Council, 30402–30403

Federal Aviation Administration
RULES
Airworthiness Directives:
AeroSpace Technologies of Australia Pty Ltd Models N22B, N22S, and N24A Airplanes, 30268–30270
AVOX Systems and B/E Aerospace Oxygen Cylinders as Installed on Various 14 CFR Part 23 and CAR 3 Airplanes, 30292–30294
Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ, –135ER, –135KE, etc. Airplanes, 30287–30290
Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Airplanes, 30284–30287
Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 190–100 STD, –100 LR, –100 IGW, –200 STD, –200 LR, and –200 IGW Airplanes, 30277–30279
McDonnell Douglas Corporation Model MD–11 and MD–11F Airplanes, 30274–30277
Quartz Mountain Aerospace, Inc. Model 11E Airplanes, 30282–30284
SOCATA Model TBM 700 Airplanes, 30272–30274
Stemme GmbH & Co. KG Model S10–VT Powered Sailplanes, 30280–30282
Teledyne Continental Motors (TCM) 240; et al. and Rolls–Royce Motors, Ltd. (R–RM) IO–240–A Reciprocating Engines, 30290–30292
Turbomeca Astazou XIV B and XIV H Turboshaft Engines, 30270–30272
Amendments of Class E Airspace:
Hoquiam, WA, 30295
Modifications of Class E Airspace:
West Yellowstone, MT, 30295–30296

Federal Communications Commission
RULES
Jurisdictional Separations and Referral to the Federal–State Joint Board, 30301–30302

Federal Deposit Insurance Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30403–30405

Federal Emergency Management Agency
NOTICES
Amendment No. 1 to Emergency Declaration:
Minnesota, 30415
Amendment No. 1 to Major Disaster Declaration:
Connecticut, 30416
Mississippi, 30416
Pennsylvania, 30415–30416
South Dakota, 30416
Amendment No. 2 to Major Disaster Declaration:
Kentucky, 30417
Minnesota, 30417
Amendment No. 7 to Major Disaster Declaration:
Tennessee, 30417–30418
Amendment No. 8 to Major Disaster Declaration:
Tennessee, 30418
Amendment No. 9 to Major Disaster Declaration:
Tennessee, 30418
Major Disaster and Related Determinations:
Kentucky, 30419–30420
Mississippi, 30419
New Hampshire, 30420
South Dakota, 30418–30421
Major Disaster Declarations:
New Hampshire; Amendment (No. 1), 30421
North Dakota; Amendment (No. 1), 30421

Federal Energy Regulatory Commission
NOTICES
Agenda and Procedures for the Staff Technical Conference:
Improving Market and Planning Efficiency Through Improved Software, 30387–30388
Applications:
City of Santa Fe; New Mexico, 30389–30390
Natural Currents Energy Services, LLC, 30388–30389
Combined Filings, 30390–30392
Dispute Resolution Panel Meeting and Technical Conference:
York Haven Power Company, LLC, 30392
Extension of Time:
Transparency Provisions of Section 23 of the Natural Gas Act, 30392

Federal Highway Administration
NOTICES
Rescission of Intent To Prepare an Environmental Impact Statement:
Franklin and Warren Counties; MO, 30480–30481

Federal Maritime Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30406–30407

Federal Reserve System
NOTICES
Change in Bank Control:
Acquisition of Shares of Banks or Bank Holding Companies, 30405
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 30405–30406

Fish and Wildlife Service
PROPOSED RULES
Endangered and Threatened Wildlife and Plants:
12-month Finding on a Petition To List the White–tailed Prairie Dog as Endangered or Threatened, 30338–30363
90-Day Finding on a Petition To List Castanea pumila var. ozarkensis, 30313–30318
Removal of Lake Erie Watersnake Nerodia sipedon insularum from Federal List of Endangered and Threatened Wildlife, 30319–30338
NOTICES
Availability of Draft Comprehensive Conservation Plan and Environmental Assessment:
Canaan Valley National Wildlife Refuge, Tucker County, WV, 30423–30425
Swan Lake National Wildlife Refuge; Chariton County, MO, 30422–30423
Endangered and Threatened Species Permit Applications, 30425–30426
Receipt of Applications for Permit, 30428–30429

Foreign–Trade Zones Board
NOTICES
Application for Reorganization/Expansion under Alternative Site Framework:
Foreign–Trade Zone 38—Spartanburg County, South Carolina, 30372
Approvals:
Foreign–Trade Zone 196 Temporary/Interim Manufacturing Authority; ATC Logistics and Electronics, 30372
Site Renumbering:
Foreign–Trade Zone 64—Jacksonville, Florida, 30385

Forest Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Outreach Opportunity Questionnaire, 30364
Intent to Prepare an Environmental Impact Statement:
Mt. Hood and Williamette National Forests; OR; Cascade Crossing Transmission Project, 30364–30366
Meetings:
Alpine County Resource Advisory Committee (RAC), 30366
Federal Lands Recreation Enhancement Act, 30366
Gallatin County Resource Advisory Committee, 30366–30367
North Mt. Baker–Snoqualmie Resource Advisory Committee, 30367

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30407

Homeland Security Department
See Coast Guard

See Federal Emergency Management Agency
See U.S. Customs and Border Protection

Industry and Security Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for NATO International Competitive Bidding, 30367–30368
Foreign Availability Procedures and Criteria, 30368

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Minerals Management Service
See National Park Service
NOTICES
Central Utah Project Completion Act, 30421–30422

International Trade Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Textile and Apparel Safeguard Actions on Imports From Peru, 30368–30369
Amended Affirmative Preliminary Countervailing Duty Determination:
Certain Coated Paper Suitable for High–Quality Print Graphics Using Sheet–Fed Presses From the People's Republic of China, 30370–30371
Antidumping or Countervailing Duty Orders, Findings, or Suspended Investigations:
Advance Notification of Sunset Reviews, 30371
Elimination of Form ITA–362P, Information on Articles for Physically or Mentally Handicapped Persons Imported Duty–Free, 30373
Extension of Preliminary Results of Antidumping Duty Administrative Review:
Certain Polyester Staple Fiber From the People's Republic of China, 30373–30374
Extension of Time Limit for Final Results of the Fifth New Shipper Review:
Certain Frozen Fish Fillets From the Socialist Republic of Vietnam, 30374
Final Affirmative Countervailing Duty Determination and Termination of Critical Circumstances Inquiry:
Certain Potassium Phosphate Salts From the People's Republic of China, 30375–30377
Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry:
Certain Potassium Phosphate Salts From the People's Republic of China, 30377–30380
Opportunity to Request Administrative Review:
Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation, 30383–30385

International Trade Commission
NOTICES
Commission Determinations To Review in Part an Initial Determination Denying Temporary Relief, etc.:
Certain Silicon Microphone Packages and Products Containing Same, 30430–30431
Institutions of Five–Year Reviews Concerning Antidumping Duty Orders:
Carboxymethylcellulose From Finland, Mexico, Netherlands, and Sweden, 30431–30434
Institutions of Five–Year Reviews Concerning Countervailing Duty Orders:
Stainless Steel Plate From Belgium, Italy, Korea, South Africa, and Taiwan, 30434–30437
Stainless Steel Sheet and Strip From Korea and Antidumping Duty Ordes, etc., 30437–30440

Justice Department
See Antitrust Division
See Antitrust Division

Land Management Bureau
NOTICES
Environmental Impact Statements; Availability, etc.:
Record of Decision for the Kemmerer Resource Management Plan, 30426–30427

Millennium Challenge Corporation
NOTICES
Meetings; Sunshine Act, 30440

Minerals Management Service
NOTICES
Terminating Exclusions of Indian Tribal Leases From Valuation:
Uintah and Ouray Reservation, 30430

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 30407–30408
National Institute of General Medical Sciences, 30408–30410
National Institute of Neurological Disorders and Stroke, 30409
National Institute on Deafness and other Communication Disorders, 30408

National Oceanic and Atmospheric Administration
RULES
Atlantic Highly Migratory Species:
Atlantic Shark Management Measures; Amendment 3, 30484–30528
NOTICES
Funding Availability:
Office of Ocean Exploration and Research Fiscal Year 2011 Ocean Exploration of the Aleutian Trench, 30380–30383
Issuance of Permit:
Marine Mammals, 30383
NOAAs Arctic Vision and Strategy; Comment Period Extension, 30383

National Park Service
NOTICES
Intent To Repatriate Cultural Items:
University of Idaho; Alfred W. Bowers Laboratory of Anthropology; Moscow, ID, 30427
Inventory Completion:
U.S. Department of the Interior, National Park Service; Grand Canyon National Park; Grand Canyon, AZ, 30428

Navy Department
NOTICES
Preferred Supplier Program (PSP); Correction, 30386

Nuclear Regulatory Commission
NOTICES
Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations, 30440–30451
Applications:
Duke Energy Carolinas, LLC; Correction, 30451

Personnel Management Office
RULES
Federal Long Term Care Insurance Program:
Eligibility Changes, 30267–30268

Postal Service
RULES
Restricting the Mailing of Replica or Inert Explosive Devices, 30300–30301
PROPOSED RULES
Revisions to the Requirements for Authority To Manufacture and Distribute Postage Evidencing Systems, 30309–30310

Securities and Exchange Commission
NOTICES
Self–Regulatory Organizations; Order Granting Approval of Accelerated Delivery, etc.:
The Options Clearing Corp., 30451–30452
Self–Regulatory Organizations; Proposed Rule Changes:
Chicago Board Options Exchange, Inc., 30452–30453
Financial Industry Regulatory Authority, Inc., 30453–30459

State Department
NOTICES
Assistance to Autonomous Government of Southern Sudan and United States Contribution, etc., 30459
Culturally Significant Objects Imported for Exhibition Determinations:
Dynasty and Divinity: Ife Art in Ancient Nigeria, 30459–30460

Thrift Supervision Office
NOTICES
Approval of Conversion Application:
Jacksonville Bancorp, Inc., Jacksonville, IL, 30481

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
NOTICES
Application for Certificate of Authority:
KaiserAir, Inc., 30460
Funding Availability:
National Infrastructure Investments, etc., 30460–30480

Treasury Department
See Thrift Supervision Office

U.S. Customs and Border Protection
NOTICES
Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers, 30530–30685

Veterans Affairs Department
PROPOSED RULES
Responding to Disruptive Patients, 30306–30309

Separate Parts In This Issue

Part II
Commerce Department, National Oceanic and Atmospheric Administration, 30484–30528

Part III
Homeland Security Department, U.S. Customs and Border Protection, 30530–30685

Reader Aids

Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
875.....30267

7 CFR
Proposed Rules:
319.....30303

14 CFR
39 (11 documents) 30268, 30270, 30272, 30274, 30277, 30280, 30282, 30284, 30287, 30290, 30292
71 (2 documents) 30295

33 CFR
100.....30296
117 (3 documents) 30299, 30300
Proposed Rules:
117.....30305

38 CFR
Proposed Rules:
17.....30306

39 CFR
111.....30300
Proposed Rules:
501.....30309

40 CFR
Proposed Rules:
52.....30310

47 CFR
36.....30301

50 CFR
600.....30484
635.....30484
Proposed Rules:
17 (3 documents) 30313, 30319, 30338

Rules and Regulations

Federal Register
Vol. 75, No. 104
Tuesday, June 1, 2010

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 875

RIN 3206–AL92

Federal Long Term Care Insurance Program: Eligibility Changes

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing a final regulation to expand eligibility to apply for coverage under the Federal Long Term Care Insurance Program (FLTCIP). Under this regulation, the definition of "qualified relative" is expanded to cover the same-sex domestic partners of eligible Federal and U.S. Postal Service employees and annuitants.

DATES: Effective July 1, 2010.

FOR FURTHER INFORMATION CONTACT: John Cutler, at *john.cutler@opm.gov* or (202) 606–0004.

SUPPLEMENTARY INFORMATION: The President's Memorandum of June 17, 2009, on Federal Benefits and Non-Discrimination requested that the Office of Personnel Management (OPM) extend certain benefits that can be provided to same-sex domestic partners of Federal employees consistent with Federal law. On September 14, 2009, OPM published proposed regulations in the **Federal Register** (74 FR 46937–46938) to expand eligibility to apply for coverage under the Federal Long Term Care Insurance Program (FLTCIP). Comments were requested by November 13, 2009. After reviewing the comments received, OPM has decided to release this final regulation without any changes from the proposed regulation. Therefore, the regulation will expand the term "qualified relative" found in 5 U.S.C. 9001(5)(D) to include additional individuals who are same-sex domestic partners of a Federal or U.S. Postal Service employee or annuitant. Prior to this regulation, a "qualified relative" included a spouse, parent, stepparent, parent-in-law, and adult child at least age 18.

OPM received 51 comments on our proposal to extend benefit eligibility to same-sex domestic partners, with the comments running about 3 to 1 in favor of such a change. A number of comments asked that opposite-sex domestic partners be included. However, as stated in the proposed regulation, opposite-sex domestic partners were not included because they may obtain eligibility to apply for Federal long term care insurance through marriage, an option not currently available to same-sex domestic partners.

Some comments suggested a clarification of the documentation that OPM will require to verify the domestic partner status. The documentation will consist of an attestation that the domestic partners meet the criteria in § 875.213(b). OPM does not expect to establish more rigorous criteria for the attestation as that would impose a greater burden on domestic partners than other qualified relatives. For instance, we do not require documentation such as bank statements or other proof of financial support for spousal coverage.

We received some comments suggesting that we add a requirement for a "common residence." Again, the documentation will consist of an attestation that the domestic partners meet the criteria in § 875.213(b). OPM does not want to establish more rigorous criteria for the attestation as that would impose a greater burden on domestic partners than other qualified relatives. We do not expect to require other documentation or to impose other tests or requirements in order to apply, enroll (if approved for coverage), or maintain coverage.

Other commenters who addressed the documentation requirements requested clarity as to how the attestation would be created and where it would be maintained. Two comments stated a preference for the documentation to be kept by OPM. We believe the employing agency or retirement system is the appropriate place for such documentation because the agency/retirement system serves as the personnel office for its employees/annuitants. OPM does not maintain employment records for employees other than for its own agency employees. OPM will supply an attestation document on its website for the use of employees, retirees, and their same-sex domestic partners. OPM does not intend to publish the document for comment since the attestation requirements have already been made available through the regulation.

There was a suggestion in some comments that OPM not require documentation of a same-sex domestic partnership for individuals in states where same-sex marriage or creation of a similar relationship, such as a civil union, is permitted. However, because of the variation from state to state, OPM has chosen a uniform set of criteria that all eligible employees, retirees, and their same-sex domestic partners must meet regardless of the state they reside in. Therefore, in order to be eligible to apply for Federal long term care insurance as qualified relatives, domestic partners must meet the standards provided in § 875.213(b), including the attestation requirement.

Finally, there were some comments requesting that coverage be extended to other family members, specifically parents of the domestic partner. We do not intend to extend benefits to other individuals at this time.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only adds an additional group to the list of groups eligible to apply for coverage under the FLTCIP. The FLTCIP is a voluntary, self-pay benefits program with no Government contribution.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local or tribal governments.

List of Subjects in 5 CFR Part 875

Administrative practices and procedures, Employee benefit plans, Government contracts, Government employees, Health insurance, Military personnel, Organization and functions, Retirement.

U.S. Office of Personnel Management.

John Berry,

Director.

■ Accordingly, OPM amends 5 CFR part 875, as follows:

PART 875—FEDERAL LONG TERM CARE INSURANCE PROGRAM

■ 1. The authority citation for 5 CFR part 875 continues to read as follows:

Authority: Authority: 5 U.S.C. 9008.

■ 2. Add a new § 875.213 to subpart B to read as follows:

§ 875.213 May I apply as a qualified relative if I am the domestic partner of an employee or annuitant?

(a) You may apply for coverage as a qualified relative if you are a domestic partner, as described in paragraph (b) of this section. As prescribed by OPM, you will be required to provide documentation to demonstrate that you meet these requirements.

(b) For purposes of this part, the term "domestic partner" is a person in a domestic partnership with an employee or annuitant of the same sex. The term "domestic partnership" is defined as a committed relationship between two adults, of the same sex, in which the partners—

(1) Are each other's sole domestic partner and intend to remain so indefinitely;

(2) Have a common residence, and intend to continue the arrangement indefinitely;

(3) Are at least 18 years of age and mentally competent to consent to a contract;

(4) Share responsibility for a significant measure of each other's financial obligations;

(5) Are not married to anyone else;

(6) Are not a domestic partner of anyone else;

(7) Are not related in a way that, if they were of opposite sex, would prohibit legal marriage in the State in which they reside; and

(8) Certify that they understand that willful falsification of the documentation described in paragraph (a) of this section may lead to disciplinary action and the recovery of the cost of benefits received related to such falsification and may constitute a criminal violation under 18 U.S.C. 1001.

[FR Doc. 2010–13015 Filed 5–28–10; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0235; Directorate Identifier 2010–CE–010–AD; Amendment 39–16311; AD 2010–11–06]

RIN 2120–AA64

Airworthiness Directives; AeroSpace Technologies of Australia Pty Ltd Models N22B, N22S, and N24A Airplanes

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

ACTION: Final rule.

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

The results of full scale fatigue tests being conducted by the manufacturer have shown the need for inspection of critical fastener holes in the stub wing upper front spar cap, near the wing strut attachment.

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

DATES: This AD becomes effective July 6, 2010.

On July 6, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; e-mail: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 9, 2010 (75 FR 10694), and proposed to supersede AD 97–11–12, Amendment 39–10041 (62 FR 28997, May 29, 1997). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

The results of full scale fatigue tests being conducted by the manufacturer have shown the need for inspection of critical fastener holes in the stub wing upper front spar cap, near the wing strut attachment.

Amendment 1 adopts the manufacturer's latest service bulletin. Its new inspection method avoids having to remove the Huck bolts and the potential to damage the holes.

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

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 25 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $4,250, or $170 per product.

In addition, we estimate that any necessary follow-on actions will take

about 4 work-hours and require parts costing $2,500, for a cost of $2,840 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–10041 (62 FR 28997, May 29, 1997), and adding the following new AD:

2010–11–06 AeroSpace Technologies of Australia Pty Ltd: Amendment 39–16311; Docket No. FAA–2010–0235; Directorate Identifier 2010–CE–010–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 6, 2010.

Affected ADs

(b) This AD supersedes AD 97–11–12, Amendment 39–10041.

Applicability

(c) This AD applies to Models N22B, N22S, and N24A airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 57: Wings.

Reason

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

The results of full scale fatigue tests being conducted by the manufacturer have shown the need for inspection of critical fastener holes in the stub wing upper front spar cap, near the wing strut attachment.

Amendment 1 adopts the manufacturer's latest service bulletin. Its new inspection method avoids having to remove the Huck bolts and the potential to damage the holes.

Actions and Compliance

(f) Unless already done, do the following actions in accordance with Nomad Service Bulletin NMD–53–22, dated June 4, 2007:

(1) Within the next 100 hours time-in-service (TIS) after July 6, 2010 (the effective date of this AD), or within the next 90 days after July 6, 2010 (the effective date of this AD), whichever occurs first, install an inspection hole in the left-hand and right-hand stub wing bottom skin.

(2) Before further flight after installing the inspection hole required in paragraph (f)(1) of this AD, initially inspect the stub wing front spar cap for cracks. Repetitively thereafter inspect at intervals not to exceed every 600 hours TIS.

(3) If any crack is found during any inspection required in paragraph (f)(2) of this AD, before further flight contact Customer Support Manager, Gippsland Aeronautics Pty Ltd., P.O. Box 881, MORWELL, Victoria, 3040, Australia; phone: +61 3 5172 1200; fax: +61 3 5172 1201; e-mail: *support@gippsaero.com,* for an FAA-approved repair scheme/modification and incorporate the repair scheme/modification. Due to FAA policy, the repair scheme/modification for crack damage must include an immediate repair of the crack. The repair scheme cannot be by repetitive inspection only. The repair scheme/modification may incorporate repetitive inspections in addition to the repetitive inspections required in paragraph (f)(2) of this AD. Continued operational flight with un-repaired crack damage is not permitted.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: The MCAI states to follow the service bulletin. The service bulletin does not specifically call out a corrective action if cracks are found. The FAA is including specific instruction of corrective action in the AD.

Other FAA AD Provisions

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

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

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

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

Related Information

(h) Refer to MCAI Civil Aviation Safety Authority (CASA) AD GAF–N22–52, Amendment 1, dated January 2010; and

Nomad Service Bulletin NMD–53–22, dated June 4, 2007, for related information.

Material Incorporated by Reference

(i) You must use Nomad Service Bulletin NMD–53–22, dated June 4, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Gippsland Aeronautics Pty Ltd., Latrobe Regional Airport, P.O. Box 881, Morwell Victoria, 3840, Australia; phone: +61 3 5172 1200; fax: +61 3 5172 1201; Internet: www.gippsaero.com.

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

(4) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on May 13, 2010.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–12176 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0219; Directorate Identifier 2010–NE–14–AD; Amendment 39–16315; AD 2010–11–10]

RIN 2120–AA64

Airworthiness Directives; Turbomeca Astazou XIV B and XIV H Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

Investigation of an uncommanded in-flight shutdown (IFSD) revealed that a third stage turbine wheel rupture was not contained by the turbine casings. The released portion consisted of a turbine blade together with the rim piece immediately below the blade. The rim piece was bounded by two adjacent axial slots and a fatigue crack that had developed between the holes in which the slots terminate. The slots and holes, which are closed by riveted plugs, were introduced by modification AB 173 in order to improve the vibration characteristics of the turbine wheel. Modification AB 208 brings an improvement to modification AB 173 by changing only the riveting detail. SN 283 72 0805 provides instructions for re-boring the holes at overhaul or repair in order to improve their surface condition. A manufacturing process modification has been introduced to improve the surface condition of these holes in third stage turbine wheels. Wheels subject to the improved manufacturing process have S/Ns outside the range specified in Table 1. Although there is only one known event, and although it resulted only in an uncommanded IFSD, with no damage to the aircraft, the possibility exists that additional events may occur, potentially involving damage to the aircraft.

We are issuing this AD to prevent uncontained failures of the third stage turbine wheel, which could result in damage to the helicopter.

DATES: This AD becomes effective July 6, 2010. The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 6, 2010.

ADDRESSES: The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Kevin Dickert, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *kevin.dickert@faa.gov;* telephone (781) 238–7117, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 30, 2010 (75 FR 15627). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that:

Investigation of an uncommanded IFSD revealed that a third stage turbine wheel rupture was not contained by the turbine casings. The released portion consisted of a turbine blade together with the rim piece immediately below the blade. The rim piece was bounded by two adjacent axial slots and a fatigue crack that had developed between the holes in which the slots terminate. The slots and holes, which are closed by riveted plugs, were introduced by modification AB 173 in order to improve the vibration characteristics of the turbine wheel. Modification AB 208 brings an improvement to modification AB 173 by changing only the riveting detail. SB 283 72 0805 provides instructions for re-boring the holes at overhaul or repair in order to improve their surface condition. A manufacturing process modification has been introduced to improve the surface condition of these holes in third stage turbine wheels. Wheels subject to the improved manufacturing process have S/Ns outside the range specified in Table 1. Although there is only one known event, and although it resulted only in an uncommanded IFSD, with no damage to the aircraft, the possibility exists that additional events may occur, potentially involving damage to the aircraft.

To address the unsafe condition, EASA issued AD 2009–0136, mandating inspection of certain third stage turbine wheels and removal of any damaged wheel. The wheels to be inspected were those whose cycles since new (CSN) would exceed 2,000 by February 1, 2011. Following additional research by Turbomeca on crack initiation and growth, this AD mandates inspections based on new criteria and removal of any damaged wheel.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

Based on the service information, we estimate that this AD will affect about three Astazou engines installed on products of U.S. registry. We also estimate that it will take about 5 work-hours per engine to comply with this AD. The average labor rate is $85 per work-hour. We anticipate no parts to be required. Based on these figures, we estimate the cost of the AD on U.S. operators to be $1,275.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–11–10 Turbomeca: Amendment 39–16315. Docket No. FAA–2010–0219; Directorate Identifier 2010–NE–14–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 6, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Turbomeca Astazou XIV B and XIV H turboshaft engines with the following part number (P/N) third stage turbine wheels that incorporate modification AB 173 (Turbomeca Service Bulletin (SB) No. 283 72 0091) or modification AB 208 (Turbomeca SB No. 283 72 0117), but that do not incorporate Turbomeca SB No. 283 72 805:

(1) Third stage turbine wheels P/N 0265257000, all serial numbers (S/Ns);

(2) Third stage turbine wheels P/N 0265257020, all S/Ns;

(3) Third stage turbine wheels P/N 0265257060, all S/Ns;

(4) Third stage turbine wheels P/N 0265257050, of the S/Ns listed in Appendix 1 of Turbomeca Mandatory Service Bulletin (MSB) No. 283 72 0804, Version C, dated October 23, 2009.

(5) These engines are installed on, but not limited to, single-engine Aerospatiale AS319B "Alouette III" and AS342J "Gazelle" helicopters.

Reason

(d) European Aviation Safety Agency (EASA) AD No. 2010–0004, dated January 5, 2010, states:

Investigation of an uncommanded in-flight shutdown (IFSD) revealed that a third stage turbine wheel rupture was not contained by the turbine casings. The released portion consisted of a turbine blade together with the rim piece immediately below the blade. The rim piece was bounded by two adjacent axial slots and a fatigue crack that had developed between the holes in which the slots terminate. The slots and holes, which are closed by riveted plugs, were introduced by modification AB 173 in order to improve the vibration characteristics of the turbine wheel. Modification AB 208 brings an improvement to modification AB 173 by changing only the riveting detail. SN 283 72 0805 provides instructions for re-boring the holes at overhaul or repair in order to improve their surface condition. A manufacturing process modification has been introduced to improve the surface condition of these holes in third stage turbine wheels. Wheels subject to the improved manufacturing process have S/Ns outside the range specified in Table 1. Although there is only one known event, and although it resulted only in an uncommanded IFSD, with no damage to the aircraft, the possibility exists that additional events may occur, potentially involving damage to the aircraft.

To address the unsafe condition, EASA issued AD 2009–0136, mandating inspection of certain third stage turbine wheels and removal of any damaged wheel. The wheels to be inspected were those whose cycles since new (CSN) would exceed 2,000 by February 1, 2011. Following additional research by Turbomeca on crack initiation and growth, this AD mandates inspections based on new criteria and removal of any damaged wheel.

We are issuing this AD to prevent uncontained failures of the third stage turbine wheel, which could result in damage to the helicopter.

Actions and Compliance

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

(1) For any affected third stage turbine wheel that on the effective date of this AD has accumulated fewer than 500 cycles-since-last-overhaul or repair, or since-new if the engine has never been overhauled or repaired:

(i) Within 300 additional cycles, perform a dye penetrant inspection on the rear face of the third stage turbine wheel.

(ii) Use Section 2, Instructions to Be Incorporated, of Turbomeca MSB No. 283 72 0804, Version C, dated October 23, 2009, to do the inspection.

(iii) Perform a second dye penetrant inspection when the engine has accumulated between 450 and 550 cycles from the first inspection.

(2) For any affected third stage turbine wheel that on the effective date of this AD, has accumulated 500 or more but fewer than 700 cycles-since-last-overhaul or repair, or since-new if the engine has never been overhauled or repaired:

(i) Within 200 additional cycles, perform a dye penetrant inspection on the rear face of the third stage turbine wheel.

(ii) Use Section 2, Instructions to Be Incorporated, of Turbomeca MSB No. 283 72 0804, Version C, dated October 23, 2009, to do the inspection.

(3) For any affected third stage turbine wheel that on the effective date of this AD, has accumulated 700 or more but fewer than 1,200 cycles-since-last-overhaul or repair, or since-new if the engine has never been overhauled or repaired:

(i) Within 150 additional cycles, perform a dye penetrant inspection on the rear face of the third stage turbine wheel.

(ii) Use Section 2, Instructions to Be Incorporated, of Turbomeca MSB No. 283 72 0804, Version C, dated October 23, 2009, to do the inspection.

(4) If any crack indication is found, then before further flight, remove the third stage turbine wheel from service.

(5) For any affected third stage turbine wheel that on the effective date of this AD has accumulated 1,200 or more cycles-since-last-overhaul or repair, or since-new if the engine has never been overhauled or repaired, no action is required.

FAA AD Differences

(f) This AD differs from the Mandatory Continuing Airworthiness Information (MCAI) and or service information as follows:

(1) EASA AD 2010–0004, dated January 5, 2010, requires removing the engine from service before further flight if a third stage turbine wheel is found cracked.

(2) This AD requires removing the third stage turbine wheel from service before further flight if a third stage turbine wheel is found cracked.

Alternative Methods of Compliance

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

Related Information

(h) Refer to MCAI EASA AD 2010–0004, dated January 5, 2010, for related information.

(i) Contact Kevin Dickert, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *kevin.dickert@faa.gov;* telephone (781) 238–7117, fax (781) 238–7199, for more information about this AD.

Material Incorporated by Reference

(j) You must use Turbomeca Mandatory Service Bulletin No. 283 72 0804, Version C, dated October 23, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Turbomeca, 40220 Tarnos, France; telephone (33) 05 59 74 40 00, fax (33) 05 59 74 45 15.

(3) You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on May 19, 2010.

Tracy Murphy,

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

[FR Doc. 2010–12539 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0286 Directorate Identifier 2010–CE–013–AD; Amendment 39–16320; AD 2010–11–15]

RIN 2120–AA64

Airworthiness Directives; SOCATA Model TBM 700 Airplanes

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

ACTION: Final rule.

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

The Civil Aviation Authority of the United Kingdom (UK) has informed EASA that significant quantities of Halon 1211 gas, determined to be outside the required specification, have been supplied to the aviation industry for use in fire extinguishing equipment. Halon 1211 (BCF) is used in portable fire extinguishers, usually fitted or stowed in aircraft passenger cabins and flight decks.

EASA published Safety Information Bulletin (SIB) 2009–39 on 23 October 2009 to make the aviation community aware of this safety concern.

The results of the ongoing investigation have now established that LyonTech Engineering Ltd, a UK-based company, has supplied further consignments of Halon 1211 (BCF) to L'Hotellier that do not meet the required specification. This Halon 1211 has subsequently been used to fill certain P/N 863520–00 portable fire extinguishers that are now likely to be installed in or carried on certain TBM700 aeroplanes.

The contaminated nature of this gas, when used against a fire, may provide reduced fire suppression, endangering the safety of the aeroplane and its occupants. In addition, extinguisher activation may lead to release of toxic fumes, possibly causing injury to aeroplane occupants.

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

DATES: This AD becomes effective July 6, 2010.

On July 6, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 19, 2010 (75 FR 13239). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

The Civil Aviation Authority of the United Kingdom (UK) has informed EASA that significant quantities of Halon 1211 gas, determined to be outside the required specification, have been supplied to the aviation industry for use in fire extinguishing equipment. Halon 1211 (BCF) is used in portable fire extinguishers, usually fitted or stowed in aircraft passenger cabins and flight decks.

EASA published Safety Information Bulletin (SIB) 2009–39 on 23 October 2009 to make the aviation community aware of this safety concern.

The results of the ongoing investigation have now established that LyonTech Engineering Ltd, a UK-based company, has supplied further consignments of Halon 1211 (BCF) to L'Hotellier that do not meet the required specification. This Halon 1211 has subsequently been used to fill certain P/N 863520–00 portable fire extinguishers that are now likely to be installed in or carried on certain TBM700 aeroplanes.

The contaminated nature of this gas, when used against a fire, may provide reduced fire suppression, endangering the safety of the aeroplane and its occupants. In addition, extinguisher activation may lead to release of toxic fumes, possibly causing injury to aeroplane occupants.

For the reason described above, this EASA AD requires the identification and removal from service of certain batches of fire extinguishers and replacement with serviceable units.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the

public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 364 products of U.S. registry. We also estimate that it will take about .5 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $15,470 or $43 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–11–15 SOCATA: Amendment 39–16320; Docket No. FAA–2010–0286; Directorate Identifier 2010–CE–013–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 6, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model TBM 700 airplanes, all serial numbers (SNs), that:

(1) are certificated in any category; and

(2) are equipped with part number (P/N) 863520–00 portable fire extinguishers, serial numbers (S/N) as listed in L'Hotellier Service Bulletin 863520–26–001, dated December 21, 2009.

Subject

(d) Air Transport Association of America (ATA) Code 26: Fire Protection.

Reason

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

The Civil Aviation Authority of the United Kingdom (UK) has informed EASA that significant quantities of Halon 1211 gas, determined to be outside the required specification, have been supplied to the aviation industry for use in fire extinguishing equipment. Halon 1211 (BCF) is used in portable fire extinguishers, usually fitted or stowed in aircraft passenger cabins and flight decks.

EASA published Safety Information Bulletin (SIB) 2009–39 on 23 October 2009 to make the aviation community aware of this safety concern.

The results of the ongoing investigation have now established that LyonTech Engineering Ltd, a UK-based company, has supplied further consignments of Halon 1211 (BCF) to L'Hotellier that do not meet the required specification. This Halon 1211 has subsequently been used to fill certain P/N 863520–00 portable fire extinguishers that are now likely to be installed in or carried on certain TBM700 aeroplanes.

The contaminated nature of this gas, when used against a fire, may provide reduced fire suppression, endangering the safety of the aeroplane and its occupants. In addition, extinguisher activation may lead to release of toxic fumes, possibly causing injury to aeroplane occupants.

For the reason described above, this EASA AD requires the identification and removal from service of certain batches of fire extinguishers and replacement with serviceable units.

Actions and Compliance

(f) Unless already done, within 3 months after July 6, 2010 (the effective date of this AD), do the following in accordance with DAHER–SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–183, dated January 2010:

(1) Inspect the fire extinguisher(s) installed or carried on board the airplane for any P/N and S/N fire extinguisher listed in L'Hotellier Service Bulletin 863520–26–001, dated December 21, 2009; and

(2) If, as a result of the inspection required by paragraph (f)(1) of this AD, you find any fire extinguisher listed in L'Hotellier Service Bulletin 863520–26–001, dated December 21, 2009, before further flight, remove it from the airplane and replace it with a serviceable unit in accordance with L'Hotellier Service

Bulletin 863520–26–001, dated December 21, 2009.

(3) As of July 6, 2010 (the effective date of this AD), do not install any fire extinguisher listed in L'Hotellier Service Bulletin 863520–26–001, dated December 21, 2009, on any airplane, unless it has been overhauled with compliant Halon 1211 (BCF) and re-identified, in accordance with the instructions of L'Hotellier Service Bulletin 863520–26–001, dated December 21, 2009.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI EASA AD No.: 2010–0012, dated February 5, 2010; DAHER–SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–183, dated January 2010; and L'Hotellier Service Bulletin 863520–26–001, dated December 21, 2009, for related information.

Material Incorporated by Reference

(i) You must use DAHER–SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–183, dated January 2010; and L'Hotellier Service Bulletin 863520–26–001, dated December 21, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact SOCATA—Direction des Services—65921 Tarbes Cedex 9—France; telephone +33 (0)5 6241–7300, fax +33 (0)5 62 41 76 54, or for North America: SOCATA NORTH AMERICA, 7501 South Airport Road, North Perry Airport (HWO), Pembroke Pines, Florida 33023; telephone: 954–893–1400; fax: 54–964–4141. For details on the fire extinguisher, contact: L'HOTELLIER, 4 rue Henri Poincaré, 92167 ANTONY Cedex, France; telephone +33(0) 1 46 66 08 08; fax +33(0) 1 46 66 23 24; e-mail: *alain.dorneau@hs.utc.com.* To obtain a copy of the referenced L'Hotellier service bulletin, e-mail: *sylvie.laruffa@hs.utc.com.*

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

(4) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on May 19, 2010.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–12595 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0866; Directorate Identifier 2009–NM–074–AD; Amendment 39–16317; AD 2010–11–12]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Corporation Model MD–11 and MD–11F Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Model MD–11 and MD–11F airplanes. That AD currently requires a one-time inspection to determine if metallic transitions are installed on wire harnesses of the tail tank fuel transfer pumps, and to determine if damaged wires are present; and repair, if necessary. That AD also requires repetitive inspections of the repaired area; and a permanent modification of the wire harnesses if metallic transitions are not installed, which would terminate the repetitive inspections. This new AD requires modifying the case grounding for the alternate fuel pump of the tail tank, the leak detection thermal switch grounding for the number 2 engine, and wire braid grounding in the empennage and number 2 engine inlet. This AD also removes one airplane from the applicability of the existing AD. This AD results from reports that the wire assembly for the alternate fuel pump is missing a case ground wire, and the lightning protection wire braid for wire assemblies located in the empennage and number 2 engine inlet are grounded improperly. We are issuing this AD to prevent insufficient grounding of the fuel pump, which in combination with an electrical failure within the fuel pump and a compromised electrical bond could cause a fuel tank ignition, resulting in consequent fire or explosion.

DATES: This AD becomes effective July 6, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 6, 2010.

On January 18, 2000 (64 FR 69389, December 13, 1999), the Director of the Federal Register approved the incorporation by reference of certain other publications listed in the AD.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail *dse.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification

Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 99–25–14, amendment 39–11457 (64 FR 69389, December 13, 1999). The existing AD applies to certain Model MD–11 and MD–11F airplanes. That NPRM was published in the **Federal Register** on September 18, 2009 (74 FR 47900). That NPRM proposed to continue to require a one-time inspection to determine if metallic transitions are installed on wire harnesses of the tail tank fuel transfer pumps, and to determine if damaged wires are present; and repair, if necessary. That NPRM also proposed to continue to require repetitive inspections of the repaired area; and a permanent modification of the wire harnesses if metallic transitions are not installed, which would terminate the repetitive inspections. That NPRM also proposed to require modifying the case grounding for the alternate fuel pump of the tail tank, the leak detection thermal switch grounding for the number 2 engine, and wire braid grounding in the empennage and number 2 engine inlet. That NPRM also proposed to remove one airplane from the applicability of the existing AD.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received from the commenter. The commenter, FedEx Express, agrees with the requirements of the proposed AD.

Request To Change Proposed Costs of Compliance

FedEx Express requests that the costs for concurrently required actions be included in the proposed Costs of Compliance. FedEx Express states that the estimated costs need to be revised since concurrent requirements are included in Boeing Alert Service Bulletin MD11–28A140, dated November 6, 2008, which is cited in the NPRM as the appropriate guidance for modifying the case grounding, leak detention thermal switch grounding, and wire braid grounding. That service bulletin specifies that McDonnell Douglas Service Bulletin MD11–28–102, Revision 01, dated June 23, 1999, must be done before or at the same time as Boeing Alert Service Bulletin MD11–28A140.

FedEx Express states that McDonnell Douglas Service Bulletin MD11–28–102, Revision 01, dated June 23, 1999, constitutes terminating action for AD 99–25–14, and it takes 28.8 hours for Group 1 (12 airplanes) and 40.4 hours for Group 2 (1 airplane). FedEx Express states that, considering all U.S.-registered airplanes are in Group 1 (9 airplanes), this will cost $20,736 in labor with no cost for parts.

FedEx Express states that Boeing Alert Service Bulletin MD11–28A140 specifies that it takes 18.5 hours for Group 1 (12 airplanes) and 24.5 hours for Group 2 (1 airplane). FedEx Express asserts that, considering all U.S.-registered airplanes are in Group 1 (9 airplanes), this will cost $13,320 for labor and $11,232 for parts.

FedEx Express states that the proposed AD will cost approximately $34,056 in labor and $11,232 in parts with a total cost of $45,288. Therefore, FedEx Express asserts the estimated cost for the proposed AD should be stated as: Rework (required by AD 99–25–14) $20,736 and Modification (new proposed action) $24,552, resulting in a total fleet cost (U.S.-registered airplanes) of $45,288.

We disagree with FedEx Express's request to include McDonnell Douglas Service Bulletin MD11–28–102, Revision 01, dated June 23, 1999, in the Costs of Compliance section of this AD. The costs in AD 99–25–14 only specify the cost for the inspection, and not the modification. The modification specified in that service bulletin is an "on-condition" requirement in existing AD 99–25–14. The modification is considered on-condition for airplanes that are not equipped with metallic transitions as specified in paragraph (g)(2) of this AD. The economic analysis of an AD is limited to the cost of actions that are actually required and it does not consider the costs of "on-condition" actions (that is, actions needed to correct an unsafe condition) because, regardless of AD direction, those actions would be required to correct an unsafe condition identified in an airplane and ensure operation of that airplane in an airworthy condition, as required by the Federal Aviation Regulations. We have not changed the final rule regarding this issue.

Explanation of Change Made To This AD

We have revised this AD to identify the legal name of the manufacturer as published in the most recent type certificate data sheet for the affected airplane models.

Explanation of Change Made to Service Bulletin Citations

We have revised this AD to provide full service bulletin citations throughout this AD.

Conclusion

We have carefully reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Explanation of Changes to Costs of Compliance

Since issuance of the NPRM, we have increased the labor rate used in the Costs of Compliance from $80 per work-hour to $85 per work-hour. The Costs of Compliance information, below, reflects this increase in the specified hourly labor rate.

We have revised the cost of parts from $80 to $0 in the section "Inspection (required by AD 99–25–14)" in this AD. In the NPRM, we inadvertently included a cost of $80 in the parts column of the "Estimated Costs" table.

Costs of Compliance

There are about 13 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection (required by AD 99–25–14).	1	$85	$0	$85, per inspection cycle ..	9	$765, per inspection cycle.
Modification (new required action).	16	85	1,248	$2,608	9	$23,472.

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–11457 (64 FR 69389, December 13, 1999) and by adding the following new airworthiness directive (AD):

2010–11–12 McDonnell Douglas Corporation: Amendment 39–16317. Docket No. FAA–2009–0866; Directorate Identifier 2009–NM–074–AD.

Effective Date

(a) This AD becomes effective July 6, 2010.

Affected ADs

(b) This AD supersedes AD 99–25–14, Amendment 39–11457.

Applicability

(c) This AD applies to McDonnell Douglas Corporation Model MD–11 and MD–11F airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin MD11–28A140, dated November 6, 2008.

Subject

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

Unsafe Condition

(e) This AD results from reports that the wire assembly for the alternate fuel pump is missing a case ground wire, and the lightning protection wire braid for wire assemblies located in the empennage and number 2 engine inlet are grounded improperly. The Federal Aviation Administration is issuing this AD to prevent insufficient grounding of the fuel pump, which in combination with an electrical failure within the fuel pump and a compromised electrical bond could cause a fuel tank ignition, resulting in consequent fire or explosion.

Compliance

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

Restatement of Requirements of AD 99–25–14 with No Changes

Inspection and Corrective Actions

(g) Within 30 days after January 18, 2000 (the effective date of AD 99–25–14), perform a one-time visual inspection of the wire harnesses of the tail tank fuel transfer pumps to determine if metallic transitions are installed, and to determine if damaged wires are present, in accordance with McDonnell Douglas Alert Service Bulletin MD11–28A101, dated August 24, 1998.

(1) If all metallic transitions are installed, no further action is required by paragraph (g) of this AD.

(2) If metallic transitions are not installed, accomplish the following:

(i) Prior to further flight, accomplish the temporary repair in accordance with condition 2 of McDonnell Douglas Alert Service Bulletin MD11–28A101, dated August 24, 1998;

(ii) Repeat the visual inspection thereafter at intervals not to exceed 2 years; and

(iii) Within 5 years after January 18, 2000, permanently modify the wire harnesses in accordance with McDonnell Douglas Service Bulletin MD11–28–102, Revision 01, dated June 23, 1999. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of this AD.

Note 1: Modification of the wire harnesses accomplished prior to January 18, 2000, in accordance with McDonnell Douglas Service Bulletin MD11–28–102, dated January 29, 1999, is considered acceptable for compliance with the modification required by paragraph (g)(2)(iii) of this AD.

New Requirements of This AD

Modification

(h) Within 72 months after the effective date of this AD, modify the case grounding for the alternate fuel pump of the tail tank, the leak detection thermal switch grounding for the number 2 engine, and wire braid grounding in the empennage and number 2 engine inlet, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A140, dated November 6, 2008.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14

CFR 39.19. Send information to ATTN: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Material Incorporated by Reference

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

TABLE 1—ALL MATERIAL INCORPORATED BY REFERENCE

Document	Revision	Date
Boeing Alert Service Bulletin MD11–28A140	Original	November 6, 2008.
McDonnell Douglas Alert Service Bulletin MD11–28A101.	Original	August 24, 1998.
McDonnell Douglas Service Bulletin MD11–28–102	Revision 01	June 23, 1999.

(1) The Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin MD11–28A140, dated November 6, 2008, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The Director of the Federal Register previously approved the incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–28A101, dated August 24, 1998; and McDonnell Douglas Service Bulletin MD11–28–102, Revision 01, dated June 23, 1999; on January 18, 2000 (64 FR 69389, December 13, 1999).

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail *dse.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

(4) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on May 14, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–12667 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0175; Directorate Identifier 2009–NM–187–AD; Amendment 39–16319; AD 2010–11–14]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 190–100 STD, –100 LR, –100 IGW, –200 STD, –200 LR, and –200 IGW Airplanes

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

ACTION: Final rule.

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

During ERJ 190 airplane full scale fatigue test, cracks were found in some structural components of the airplane. Analysis of these cracks resulted in modifications on the airplane Airworthiness Limitation Items (ALI), to include new inspections tasks or modification of existing ones and its respective thresholds and intervals.

Failure to inspect these components according to the new tasks, thresholds and intervals could prevent a timely detection of fatigue cracks. Undetected fatigue cracks in these areas could adversely affect the structural integrity of these airplanes.

* * * * *

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

DATES: This AD becomes effective July 6, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 6, 2010.

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

FOR FURTHER INFORMATION CONTACT: Kenny Kaulia, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2848; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 4, 2010 (75 FR 9814). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

During ERJ 190 airplane full scale fatigue test, cracks were found in some structural components of the airplane. Analysis of these cracks resulted in modifications on the airplane Airworthiness Limitation Items (ALI), to include new inspections tasks or modification of existing ones and its respective thresholds and intervals.

Failure to inspect these components according to the new tasks, thresholds and intervals could prevent a timely detection of fatigue cracks. Undetected fatigue cracks in these areas could adversely affect the structural integrity of these airplanes.

* * * * *

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new and modified structural inspections. You

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

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 65 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $5,525, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–11–14 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–16319. Docket No. FAA–2010–0175; Directorate Identifier 2009–NM–187–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 6, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 190–100 STD, –100 LR, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes, certificated in any category.

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

Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage; 57: Wings.

Reason

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

During ERJ 190 airplane full scale fatigue test, cracks were found in some structural components of the airplane. Analysis of these cracks resulted in modifications on the airplane Airworthiness Limitation Items (ALI), to include new inspections tasks or modification of existing ones and its respective thresholds and intervals.

Failure to inspect these components according to the new tasks, thresholds and intervals could prevent a timely detection of fatigue cracks. Undetected fatigue cracks in these areas could adversely affect the structural integrity of these airplanes.

* * * * *

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness (ICA) to incorporate new and modified structural inspections.

Actions and Compliance

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

(1) Within 90 days after the effective date of this AD: Revise the ALS of the ICA to include the tasks specified in Table 1 of this AD. These tasks are identified in EMBRAER Temporary Revision (TR) 2–5, dated December 6, 2007; and EMBRAER TR 2–6, dated February 12, 2008; to Appendix A, Part 2, Airworthiness Limitation Inspections (ALI)—Structures, of the EMBRAER 190 Maintenance Review Board Report (MRBR) MRB–1928.

Note 2: The actions required by paragraph (f)(1) of this AD may be done by inserting a copy of EMBRAER TR 2–5 and TR 2–6 into

the ALS of the EMBRAER 190 MRBR MRB–1928. When these TRs have been included in general revisions of the EMBRAER 190 MRBR MRB–1928, the general revisions may be inserted in the EMBRAER 190 MRBR MRB–1928, provided the relevant information in the general revision is identical to that in EMBRAER TR 2–5 and TR 2–6, and these TRs may be removed.

(2) The initial compliance times for the tasks specified in EMBRAER TR 2–5, dated December 6, 2007; and EMBRAER TR 2–6, dated February 12, 2008; to Appendix A, Part 2, Airworthiness Limitation Inspections (ALI)—Structures, of the EMBRAER 190 MRBR MRB–1928; start at the later of the times specified in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD. For certain tasks, the compliance times depend on the pre-modification and post-modification condition of the associated service bulletin, as specified in the "Applicability" column of these TRs.

(i) Within the applicable threshold times specified in these TRs.

(ii) At the applicable compliance time specified in Table 1 of this AD.

TABLE 1—MRBR TRS AND TASKS, WITH COMPLIANCE TIMES

EMBRAER MRBR TR	Subject	MRBR task No.	Compliance time
TR 2–5, dated December 6, 2007	Wing stub main box lower skin and splices—internal.	57–01–002–0002	250 flight cycles after effective date of this AD.
TR 2–5, dated December 6, 2007	Wing stub spar 3—internal/external	57–01–008–0003	500 flight cycles after effective date of this AD.
TR 2–5, dated December 6, 2007	Wing stub spar 3—external	57–01–008–0004	500 flight cycles after effective date of this AD.
TR 2–5, dated December 6, 2007	Wing lower skin panel stringers—internal.	57–10–007–0004	500 flight cycles after effective date of this AD.
TR 2–5, dated December 6, 2007	Wing main box rib 11—internal	57–10–012–0003	500 flight cycles after effective date of this AD.
TR 2–6, dated December 12, 2008	Nose landing gear wheel well metallic structure.	53–10–021–0004	500 flight cycles after effective date of this AD.

(iii) Thereafter, except as provided in paragraph (g) of this AD, no alternative replacement times or structural inspection intervals may be approved for these tasks.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows:

Although the MCAI specifies both revising the airworthiness limitations and doing repetitive inspections, this AD only specifies the revision. Requiring revision of the airworthiness limitations, rather than requiring individual repetitive inspections, is advantageous for operators because it allows them to record AD compliance status only at the time that they make the revision, rather than after every inspection. It also has the advantage of keeping all airworthiness limitations, whether imposed by original certification or by AD, in one place within the operator's maintenance program, thereby reducing the risk of non-compliance because of oversight or confusion.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Kenny Kaulia, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2848; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

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

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

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directive 2009–04–02, effective April 29, 2009; and EMBRAER TR 2–5, dated December 6, 2007, and EMBRAER TR 2–6, dated February 12, 2008, to Appendix A, Part 2, Airworthiness Limitation Inspections (ALI)—Structures, of the EMBRAER 190 MRBR MRB–1928; for related information.

Material Incorporated by Reference

(i) You must use EMBRAER Temporary Revision 2–5, dated December 6, 2007; and EMBRAER Temporary Revision 2–6, dated February 12, 2008; to Appendix A, Part 2, Airworthiness Limitation Inspections (ALI)—Structures, of the EMBRAER 190 Maintenance Review Board Report MRB–1928; to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone: +55 12 3927–5852 or +55 12 3309–0732; fax: +55 12 3927–7546; e-mail: *distrib@embraer.com.br;* Internet: *http://www.flyembraer.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on May 13, 2010.

John Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–12678 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 39

[Docket No. FAA–2008–0788; Directorate Identifier 2008–CE–039–AD; Amendment 39–16313; AD 2010–11–08]

RIN 2120–AA64

Airworthiness Directives; Stemme GmbH & Co. KG Model S10–VT Powered Sailplanes

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

ACTION: Final rule.

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

AD 2007–0315–E was issued to address a possible fuel leakage in the gear compartment in front of the engine and mandated inspections and replacement of fuel plastic-made connectors by connectors made of metal. Since its publication, another fuel leakage has been reported on a S10–VT which had implemented the STEMME Service Bulletin (SB) A31–10–082 as required by AD 2007–0315–E.

It has been determined that the fuel leak may have been caused by the deformation that the originally installed clamps created on the fuel hoses and thus preventing the new clamps from being sufficiently pinched to perform a correct tightening.

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

DATES: This AD becomes effective July 6, 2010.

On July 6, 2010, the Director of the Federal Register approved the incorporation by reference of STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.b, dated May 6, 2009, listed in this AD.

As of June 23, 2008 (73 FR 31355, June 2, 2008), the Director of the Federal Register approved the incorporation by reference of STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008, listed in this AD.

As of February 20, 2008 (73 FR 5733, January 31, 2008), the Director of the Federal Register approved the incorporation by reference of STEMME F & D Service Bulletin A31–10–082, AM.-Index: 01.a, dated November 30, 2007, listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on July 3, 2008 (73 FR 38160), and proposed to supersede AD 2008–11–20, Amendment 39–15543 (73 FR 31355, June 2, 2008).

AD 2008–11–20 was issued as an interim action in order to address the need for the immediate prevention of leaks in the area of the fuel line.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, issued Emergency AD No. 2008–0053–E, dated March 5, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products.

The EASA AD requires mandatory replacement of STEMME part number (P/N) M476 single-ear clamps in the fuel system with P/N 10M–181 single-ear clamps on all affected sailplanes within 12 months after the effective date of the AD.

The Administrative Procedure Act does not permit the FAA to "bootstrap" a long-term requirement into an urgent safety of flight action where the rule becomes effective at the same time the public has the opportunity to comment. The short-term action and the long-term action are analyzed separately for justification to bypass prior public notice.

We are issuing this AD to address the mandatory replacement of all P/Ns M476 in the fuel system with P/Ns 10M–181.

Comments

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

Comment Issue: Allow Installation of a Stainless Steel T- and Y-Connector in the Fuel System in Lieu of a Zinc Metal T- and Y-Connector

Gary Rode requests allowance to install an appropriately sized stainless steel fuel connector fitting instead of the zinc metal connector specified in STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008.

Mr. Rode states the zinc metal fuel connector fitting identified in the manufacturer's service bulletin is improperly sized and is made from a material that is susceptible to corrosion. Mr. Rode also states his disagreement with the manufacturer's use of a smaller clamp to alleviate fuel leakage at the fuel connector/hose interface.

Mr. Rode recommends using a specific stainless steel connector that has a larger outside diameter. He states that using a larger diameter connector would provide a better fit when matched with the fuel hose inside diameter, thereby eliminating fuel leakage. Also, using a stainless steel connector would provide greater corrosion resistance.

We agree that the stainless steel connector is an acceptable replacement part. We do not agree that the zinc metal connector is an unsafe part.

We have coordinated Mr. Rode's concerns with the German airworthiness authority (LBA) and the manufacturer. The manufacturer has, in agreement with the LBA, revised STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008, to include allowance for installing a stainless steel connector as an optional replacement part.

There has not been any safety issue related to the zinc metal connector reported in Europe or in the United States. Therefore, based on service history, we have elected at this time to not mandate a replacement of the zinc metal connector.

We have changed the final rule AD action to incorporate using STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.b, dated May 6, 2009, which allows installing a zinc metal fuel connector or a stainless steel fuel connector.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this AD will affect 46 products of U.S. registry. We also estimate that it will take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $11,040, or $240 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–15543 (73 FR 31355; June 2, 2008), and adding the following new AD:

2010–11–08 Stemme GmbH & Co. KG: Amendment 39–16313; Docket No. FAA–2008–0788; Directorate Identifier 2008–CE–039–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 6, 2010.

Affected ADs

(b) This AD supersedes AD 2008–11–20, Amendment 39–15543.

Applicability

(c) This AD applies to Model S10–VT powered sailplanes, serial numbers 11–001 through 11–112, certificated in any category.

Subject

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

Reason

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

AD 2007–0315–E was issued to address a possible fuel leakage in the gear compartment in front of the engine and mandated inspections and replacement of fuel plastic-made connectors by connectors made of metal. Since its publication, another fuel leakage has been reported on a S10–VT which had implemented the STEMME Service Bulletin (SB) A31–10–082 as required by AD 2007–0315–E.

It has been determined that the fuel leak may have been caused by the deformation that the originally installed clamps created on the fuel hoses and thus preventing the new clamps from being sufficiently pinched to perform a correct tightening.

The present Airworthiness Directive (AD) supersedes AD 2007–0315–E and requires you to check the fuel system according to the STEMME SB A31–10–083 as well as to replace single-ear clamps and plastic connectors.

The actions specified by this AD are intended to reduce the potential for a fire to ignite and which could lead to loss of control of the sailplane.

Actions and Compliance

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

(1) *For all sailplanes affected by this AD, except for serial numbers 11–036, 11–067, 11–068, and 11–090:* Before further flight after March 21, 2008 (the compliance date retained from AD 2008–03–06, which was superseded by AD 2008–11–20), replace all plastic T- and Y-connectors in the fuel system with metal connectors. Do the replacements following STEMME F & D Service Bulletin A31–10–082, AM.-Index: 01.a, dated November 30, 2007, or STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.b, dated May 6, 2009.

Note 1: Serial numbers 11–036, 11–067, 11–068, and 11–090 had the plastic T- and Y-connectors in the fuel system replaced with metal connectors by the manufacturer.

(2) *For all sailplanes affected by this AD:* Before further flight after June 23, 2008 (the compliance date retained from AD 2008–11–20), inspect the fuel system for possible leakage. Do the inspection following STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008, or STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.b, dated May 6, 2009.

(3) *For all sailplanes affected by this AD:* If any leak is found during the inspection required in paragraph (f)(2) of this AD, before further flight, repair the leak following an FAA-approved procedure and replace all STEMME part number (P/N) M476 single-ear clamps in the fuel system with P/N 10M–181 single-ear clamps. Contact the manufacturer at the address specified in paragraph (i)(4) of this AD to obtain an FAA-approved repair procedure. Do the replacements following

STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008, or STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.b, dated May 6, 2009.

(4) *For sailplanes that had P/Ns M476 replaced with P/Ns 10M–181 in compliance with AD 2008–11–20:* Before further flight after July 6, 2010 (the effective date of this AD), do a leak test as specified in STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008, or STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.b, dated May 6, 2009.

(5) *For sailplanes that had P/Ns M476 replaced with P/Ns 10M–181 in compliance with AD 2008–11–20:* If a leak is found during the leak test required in paragraph (f)(4) of this AD, before further flight, repair the leak following an FAA-approved procedure. Contact the manufacturer at the address specified in paragraph (i)(4) of this AD to obtain an FAA-approved repair procedure.

(6) *For all sailplanes affected by this AD:* If no leak is found during the inspection required in paragraph (f)(2) of this AD, within the next 12 months after July 6, 2010 (the effective date of this AD), replace all P/Ns M476 in the fuel system with P/Ns 10M–181. Do the replacements following STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008, or STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.b, dated May 6, 2009.

(7) *For all sailplanes affected by this AD:* Before further flight after doing the replacement required in paragraph (f)(6) of this AD, do a leak test as specified in STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008, or STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.b, dated May 6, 2009.

(8) *For all sailplanes affected by this AD:* If a leak is found during the leak test required in paragraph (f)(7) of this AD, before further flight, repair the leak following an FAA-approved procedure. Contact the manufacturer at the address specified in paragraph (i)(4) of this AD to obtain an FAA-approved repair procedure.

(9) *For all sailplanes affected by this AD:* After June 23, 2008 (the compliance date retained from AD 2008–11–20), do not install plastic "T" and "Y" shape connectors and P/N M476 single-ear clamps in the fuel system.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Emergency AD No. 2008–0053–E, dated March 5, 2008; STEMME F & D Service Bulletin A31–10–082, AM.-Index: 01.a, dated November 30, 2007; STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008; and STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.b, dated May 6, 2009, for related information.

Material Incorporated by Reference

(i) You must use STEMME F & D Service Bulletin A31–10–082, AM.-Index: 01.a, dated November 30, 2007; STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008; and STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.b, dated May 6, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.b, dated May 6, 2009, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On June 23, 2008 (73 FR 31355, June 2, 2008), the Director of the Federal Register previously approved the incorporation by reference of STEMME F & D Service Bulletin A31–10–083, Am-Index: 01.a, dated February 26, 2008, listed in this AD.

(3) On February 20, 2008 (73 FR 5733, January 31, 2008), the Director of the Federal Register previously approved the incorporation by reference of STEMME F & D Service Bulletin A31–10–082, AM.-Index: 01.a, dated November 30, 2007, listed in this AD.

(4) For service information identified in this AD, contact STEMME GmbH & Co. KG, Flugplatzstraße F 2, Nr. 7, 15344 Strausberg, Federal Republic of Germany; Internet: *http://www.stemme.de/man/.*

(5) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

(6) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on May 18, 2010.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–12443 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0261; Directorate Identifier 2010–CE–008–AD; Amendment 39–16312; AD 2010–11–07]

RIN 2120–AA64

Airworthiness Directives; Quartz Mountain Aerospace, Inc. Model 11E Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Quartz Mountain Aerospace, Inc. Model 11E airplanes. This AD requires you to clean and lubricate the aileron pushrod bearings. This AD results from reports of the aileron control stick force increasing and of the controls being very noisy. We are issuing this AD to detect and correct insufficient lubrication and residual metallic paint particles in the pushrod end ball joints, which could result in difficulty actuating aileron controls sometime during flight after takeoff. This condition could lead to difficulty controlling the airplane in flight.

DATES: This AD becomes effective on July 6, 2010.

On July 6, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: Quartz Mountain Aerospace, Inc. is in liquidation. For service/or continued airworthiness information identified in this AD, contact Manager, Fort Worth Aircraft Certification Office, FAA, ATTN: Garry D. Sills, Aerospace Engineer, Rotorcraft Directorate—Airplane Certification Office, ASW–150, 2601 Meacham Blvd, Fort Worth, Texas 76193; telephone: (817) 222–5154; facsimile: (817) 222–5960.

To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at *http://www.regulations.gov.* The docket number is FAA–2010–0261; Directorate Identifier 2010–CE–008–AD.

FOR FURTHER INFORMATION CONTACT: Garry D. Sills, Aerospace Engineer, Rotorcraft Directorate—Airplane Certification Office, ASW–150, 2601 Meacham Blvd, Fort Worth, Texas 76193; telephone: (817) 222–5154; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

On March 9, 2010, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Quartz Mountain Aerospace, Inc. Model 11E airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 16, 2010 (75 FR 12468). The NPRM proposed to require you to clean and lubricate the aileron pushrod bearings.

Comments

We provided the public the opportunity to participate in developing this AD. We received no comments on the proposal or on the determination of the cost to the public.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this proposed AD would affect 12 airplanes in the U.S. registry.

We estimate the following costs to do the proposed cleaning and lubrication:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work-hour × $85 per hour = $85	$10	$95	$1,140

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 AD.

Regulatory Findings

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

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

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include "Docket No. FAA–2010–0261; Directorate Identifier 2010–CE–008–AD" in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. FAA amends § 39.13 by adding the following new AD:

2010–11–07 Quartz Mountain Aerospace, Inc.: Amendment 39–16312; Docket No. FAA–2010–0261; Directorate Identifier 2010–CE–008–AD.

Effective Date

(a) This AD becomes effective on July 6, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model 11E airplanes, all serial numbers, that are certificated in any category.

Subject

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

Unsafe Condition

(e) This AD results from reports of the aileron control stick force increasing and of the controls being very noisy. We are issuing this AD to detect and correct insufficient lubrication and residual metallic paint particles in the rod end ball joints, which could result in difficulty actuating aileron controls sometime during flight after takeoff. This failure could lead to difficulty controlling the airplane in flight.

Compliance

(f) To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
(1) Clean and lubricate the aileron pushrod bearings.	Within the next 10 hours time-in-service (TIS) after July 6, 2010 (the effective date of this AD).	Follow Quartz Mountain Aerospace Mandatory Service Bulletin No. SB 09–02, dated May 5, 2009.
(2) Lubricate the aileron pushrod bearings	Within 50 hours TIS after the cleaning and lubrication required by paragraph (f)(1) of this AD. Repetitively thereafter at intervals not to exceed 50 hours TIS.	Follow Quartz Mountain Aerospace Mandatory Service Bulletin No. SB 09–02, dated May 5, 2009.

Special Flight Permit

(g) Under 14 CFR part 39.23, a special flight is not permitted for this AD.

Alternative Methods of Compliance (AMOCs)

(h) The Manager, Fort Worth Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Garry D. Sills, Aerospace Engineer, Rotorcraft Directorate—Airplane Certification Office, ASW–150, 2601 Meacham Blvd, Fort Worth, Texas 76193; telephone: (817) 222–5154; facsimile: (817) 222–5960. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Material Incorporated by Reference

(i) You must use Quartz Mountain Aerospace Mandatory Service Bulletin No. SB 09–02, dated May 5, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) Quartz Mountain Aerospace, Inc. is in liquidation. For service information identified in this AD, contact Manager, Fort Worth Aircraft Certification Office, FAA, ATTN: Garry D. Sills, Aerospace Engineer, Rotorcraft Directorate—Airplane Certification Office, ASW–150, 2601 Meacham Blvd, Fort Worth, Texas 76193; telephone: (817) 222–5154; fax: (817) 222–5960.

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

(4) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on May 14, 2010.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–12302 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0176; Directorate Identifier 2009–NM–201–AD; Amendment 39–16318; AD 2010–11–13]

RIN 2120–AA64

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

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

ACTION: Final rule.

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

During ERJ 170 airplane full scale fatigue test, cracks were found in some structural components of the airplane. Analysis of these cracks resulted in modifications on the airplane Airworthiness Limitation Items (ALI), to include new inspections tasks or modification of existing ones and its respective thresholds and intervals.

Failure to inspect these components according to the new tasks, thresholds and intervals, could prevent a timely detection of fatigue cracks. Undetected fatigue cracks in these areas could adversely affect the structural integrity of these airplanes.

* * * * *

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

DATES: This AD becomes effective July 6, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 6, 2010.

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

FOR FURTHER INFORMATION CONTACT: Kenny Kaulia, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2848; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 4, 2010 (75 FR 9811). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> During ERJ 170 airplane full scale fatigue test, cracks were found in some structural components of the airplane. Analysis of these cracks resulted in modifications on the airplane Airworthiness Limitation Items (ALI), to include new inspections tasks or modification of existing ones and its respective thresholds and intervals.
>
> Failure to inspect these components according to the new tasks, thresholds and intervals, could prevent a timely detection of fatigue cracks. Undetected fatigue cracks in these areas could adversely affect the structural integrity of these airplanes.
>
> * * * * *

The corrective action is revising the Airworthiness Limitations section of the Instructions for Continued Airworthiness to incorporate new structural inspection requirements. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or

on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 166 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $14,110, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–11–13 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–16318. Docket No. FAA–2010–0176; Directorate Identifier 2009–NM–201–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 6, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU airplanes; certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (h)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane. The FAA has provided guidance for this determination in Advisory Circular (AC) 25–1529–1A.

Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage; 57: Wings.

Reason

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

During ERJ 170 airplane full scale fatigue test, cracks were found in some structural components of the airplane. Analysis of these cracks resulted in modifications on the airplane Airworthiness Limitation Items (ALI), to include new inspections tasks or modification of existing ones and its respective thresholds and intervals.

Failure to inspect these components according to the new tasks, thresholds and intervals, could prevent a timely detection of fatigue cracks. Undetected fatigue cracks in these areas could adversely affect the structural integrity of these airplanes.

* * * * *

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness (ICA) to incorporate new structural inspection requirements.

Compliance

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

Actions

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

(1) Within 90 days after the effective date of this AD, revise the ALS of the ICA to incorporate the inspection tasks identified in the EMBRAER temporary revisions (TRs) to Appendix A—Part 2 of the EMBRAER 170 Maintenance Review Board Report MRB–1621, listed in Table 1 of this AD. The initial compliance times for the tasks start from the applicable threshold times specified in the TRs for the corresponding tasks of the maintenance review board report or within 500 flight cycles after the effective date of this AD, whichever occurs later. For certain

tasks, the compliance times depend on the pre-modification and post-modification status of the actions specified in the associated service bulletin, as specified in the "Applicability" column of the applicable TRs identified in Table 1 of this AD. The threshold values stated in the TRs referenced in Table 1 of this AD are total flight cycles on the airplane since the date of issuance of the original Brazilian airworthiness certificate or the date of issuance of the original Brazilian export certificate of airworthiness.

TABLE 1—INSPECTION TASKS

TR	Date	Subject	Task No.
TR 4–1	October 15, 2007	Ram air turbine compartment, support structure and cutout structure—internal.	53–10–012–0002 53–10–012–0003
		Nose landing gear wheel well metallic structure	53–10–021–0005 53–10–021–0006
TR 4–3	December 6, 2007	Wing stub spar 3 side fitting—internal	57–01–012–001
		Wing upper skin panels—external	57–10–010–0002
		Fixed trailing edge lower skin panel—external	57–50–002–0002
		Fixed trailing edge rib 4A—external	57–50–005–0003
		Fixed trailing edge rib 6—internal	57–50–005–0004
TR 4–4	January 18, 2008	Wing stub main box lower—internal	57–01–002–003

(2) After accomplishing the actions specified in paragraph (g)(1) of this AD, no alternative inspections or inspection intervals may be used unless the inspection or inspection interval is approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or the Agência Nacional de Aviação Civil (ANAC) (or its delegated agent); or unless the inspection or interval is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (h)(1) of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Kenny Kaulia, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2848; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

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

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

Related Information

(i) Refer to MCAI Brazilian Airworthiness Directive 2009–04–01, dated April 29, 2009; and the TRs to Appendix A—Part 2 of the EMBRAER 170 Maintenance Review Board Report MRB–1621, identified in Table 2 of this AD; for related information.

TABLE 2—TEMPORARY REVISIONS

EMBRAER temporary revisions	Date
TR 4–1	October 15, 2007.
TR 4–3	December 6, 2007.
TR 4–4	January 18, 2008.

Material Incorporated by Reference

(j) You must use the service information contained in Table 3 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone: +55 12 3927–5852 or +55 12 3309–0732; fax: +55 12 3927–7546; e-mail: *distrib@embraer.com.br;* Internet: *http://www.flyembraer.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

TABLE 3—MATERIAL INCORPORATED BY REFERENCE

EMBRAER temporary revision—	Dated—	To—
4–1	October 15, 2007	Appendix A—Part 2 of the EMBRAER 170 Maintenance Review Board Report MRB–1621.
4–3	December 6, 2007	Appendix A—Part 2 of the EMBRAER 170 Maintenance Review Board Report MRB–1621.
4–4	January 18, 2008	Appendix A—Part 2 of the EMBRAER 170 Maintenance Review Board Report MRB–1621.

Issued in Renton, Washington, on May 14, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–12671 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0132; Directorate Identifier 2008–NM–081–AD; Amendment 39–16306; AD 2010–11–01]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ, –135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes

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

ACTION: Final rule.

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

During aircraft full scale fatigue test, it has been found the occurrence of cracks in the cockpit windshield post lower eyelet fitting at the attachment of the center post on the forward fuselage (SSI 53–10–19). Further analysis of this cracking resulted in modifications on the aircraft Airworthiness Limitation Items (ALI), to include new inspection tasks and its respective intervals. Undetected fatigue cracking in this area could adversely affect the structural integrity of these airplanes.

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

DATES: This AD becomes effective July 6, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 6, 2010.

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

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on February 18, 2009 (74 FR 7570). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

During aircraft full scale fatigue test, it has been found the occurrence of cracks in the cockpit windshield post lower eyelet fitting at the attachment of the center post on the forward fuselage (SSI 53–10–19). Further analysis of this cracking resulted in modifications on the aircraft Airworthiness Limitation Items (ALI), to include new inspection tasks and its respective intervals. Undetected fatigue cracking in this area could adversely affect the structural integrity of these airplanes.

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate new structural inspection requirements. You may obtain further information by examining the MCAI in the AD docket.

Explanation of Revised Service Information

Empresa Brasileira de Aeronautica S.A. (EMBRAER) has issued Revision 12, dated September 19, 2008, of Appendix 2, "Airworthiness Limitation Requirements," of EMBRAER EMB135/EMB145 Maintenance Review Board Report (MRBR) MRB–145/1150. In the NPRM we referred to EMBRAER EMB135/EMB145 MRBR MRB–145/1150, Revision 11, dated September 19, 2007, as an appropriate source of service information.

We have revised paragraph Table 1 of this AD to refer to Appendix 2, "Airworthiness Limitation Requirements," of EMBRAER EMB135/EMB145 MRBR MRB–145/1150, Revision 12, dated September 19, 2008. We have also added a new paragraph (f)(3) to this AD to specify that actions done before the effective date of this AD in accordance with EMBRAER EMB135/EMB145 MRBR MRB–145/1150, Revision 11, dated September 19, 2007, are acceptable for compliance with the corresponding requirements of this AD.

Comments

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

Request To Extend Grace Period

EMBRAER requests that we consider extending the grace period for doing the tasks required by paragraph (f) of the NPRM from 200 flight cycles after revising the ALS to 500 flight cycles after revising the ALS. EMBRAER explains that the extension of the grace period would allow operators to better program their maintenance schedules, thereby avoiding grounding airplanes without affecting flight safety.

We disagree with the request to extend the grace period to 500 flight cycles after revising the ALS. The commenter did not provide any technical information to substantiate the assertion that the extension would not adversely affect flight safety. However, under the provisions of paragraph (g)(1) of this AD, we will consider requests for adjustments to the grace period if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety. We have not changed the AD in this regard.

Request To Allow Later Revisions of Service Information

EMBRAER recommends that we accept later revisions of Appendix 2, "Airworthiness Limitation Requirements," of EMBRAER EMB135/EMB145 Maintenance Review Board Report (MRBR) MRB–145/1150, Revision 11, dated September 19, 2007. EMBRAER points out that AD 2008–13–14, Amendment 39–15577 (73 FR 35904, June 25, 2008), accepts later revisions of the MRBR included in that AD.

We disagree with adding a general statement to the AD that accepts any later revision of EMBRAER MRBR MRB–145/1150, Revision 11, dated September 19, 2007, that we have not reviewed and approved. We note that we approved use of later revisions of the MRBR referenced in AD 2008–13–14 only if approved by the Manager, ANM–116, FAA, or Agência Nacional de Aviação Civil (or its delegated agent). We cannot use the phrase, "or later FAA-approved revisions," in an AD when referring to the service document because doing so violates Office of the Federal Register (OFR) regulations for approval of materials "incorporated by reference" in rules. To allow operators to use later revisions of the referenced document (issued after publication of the AD), either we must revise the AD to reference specific later revisions, or

operators must request approval to use later revisions as an alternative method of compliance with this AD under the provisions of paragraph (g)(1) of this AD.

However, as stated previously, we have reviewed and approved Appendix 2, "Airworthiness Limitation Requirements," of EMBRAER EMB135/EMB145 MRBR MRB–145/1150, Revision 12, dated September 19, 2008, which is now referenced as the appropriate source of service information for this AD. We have made no further change to this AD in this regard.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Explanation of Change to Costs of Compliance

Since issuance of the NPRM, we have increased the labor rate used in the Costs of Compliance from $80 per work-hour to $85 per work-hour. The Costs of Compliance information, below, reflects this increase in the specified hourly labor rate.

Costs of Compliance

We estimate that this AD will affect 709 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $60,265, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–11–01 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–16306. Docket No. FAA–2009–0132; Directorate Identifier 2008–NM–081–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 6, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ, –135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes, certificated in any category, all serial numbers, except Model EMB–145LR airplanes that have been modified in accordance with Brazilian Supplemental Type Certificates 2002S06–09, 2002S06–10, and 2003S08–01.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane. The FAA has provided guidance for this determination in Advisory Circular (AC) 25–1529–1.

Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage.

Reason

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

During aircraft full scale fatigue test, it has been found the occurrence of cracks in the cockpit windshield post lower eyelet fitting at the attachment of the center post on the forward fuselage (SSI 53–10–19). Further analysis of this cracking resulted in modifications on the aircraft Airworthiness Limitation Items (ALI), to include new inspection tasks and its respective intervals. Undetected fatigue cracking in this area could adversely affect the structural integrity of these airplanes.

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate new structural inspection requirements.

Actions and Compliance

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

(1) Within 90 days after the effective date of this AD revise the ALS of the Instructions for Continued Airworthiness to incorporate the structural inspection item (SSI) 53–10–19's applicable tasks identified in Appendix 2, "Airworthiness Limitation Requirements," of the applicable document listed in Table 1 of this AD. The initial compliance times for the task start from the applicable time specified in SSI 53–10–19 or within 200 flight cycles after revising the ALS, whichever occurs later. Repeat the applicable inspection thereafter at the interval specified in Appendix 2 of the applicable document listed in Table 1 of this AD, except as provided by paragraphs (f)(2) and (g) of this AD.

TABLE 1—SERVICE INFORMATION

Model—	Appendix 2, "Airworthiness Limitation Requirements," of EMBRAER—
EMB–135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes.	EMB135/EMB145 Maintenance Review Board Report (MRBR) MRB–145/1150, Revision 12, dated September 19, 2008.
EMB–135BJ airplanes	Legacy BJ—Maintenance Planning Guide MPG–1483, Revision 5, dated March 22, 2007.

Note 2: Appendix 2, "Airworthiness Limitation Requirements," of EMBRAER EMB135/EMB145 MRBR MRB–145/1150, Revision 12, dated September 19, 2008, includes EMBRAER Temporary Revision 10–6, dated May 23, 2007, which is referred to in the MCAI as an applicable document to incorporate into the maintenance program.

(2) After accomplishing the actions specified in paragraph (f)(1) of this AD, no alternative inspections or inspection intervals may be used unless the inspection or inspection interval is approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or the Agência Nacional de Aviação Civil (ANAC) (or its delegated agent); or unless the inspection or interval is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

(3) Actions done before the effective date of this AD in accordance with EMBRAER EMB135/EMB145 MRBR MRB–145/1150, Revision 11, dated September 19, 2007, are acceptable for compliance with the corresponding requirements of this AD.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows:

(1) We have removed the requirement to mandate the SSI tasks in Section 4—"Structural Inspection Requirements," of the applicable document listed in Table 1 of this AD which are referred to in the MCAI. Those SSI tasks are included in Appendix 2, "Airworthiness Limitation Requirements," of the applicable document listed in Table 1 of this AD.

(2) We have not included the 21,336-flight-cycle threshold specified in the MCAI because the airplanes in the U.S.-registered fleet have surpassed that threshold. Instead, we included a 200-flight-cycle grace period for accomplishing the SSI 53–10–19 tasks.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Todd Thompson, Aerospace Engineer, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

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

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

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directive 2007–07–02, effective August 21, 2007, and the service information listed in Table 1 of this AD, for related information.

Material Incorporated by Reference

(i) You must use the service information contained in Table 2 of this AD, as applicable, to do the actions required by this AD, unless the AD specifies otherwise.

TABLE 2—MATERIAL INCORPORATED BY REFERENCE

Document	Revision	Date
EMBRAER EMB135/EMB145 Maintenance Review Board Report MRB–145/1150	12	September 19, 2008.
EMBRAER Legacy BJ—Maintenance Planning Guide MPG–1483	5	March 22, 2007.

EMBRAER EMB135/EMB145 Maintenance Review Board Report (MRBR) MRB–145/1150, Revision 12, dated September 19, 2008, contains the following effective pages:

LIST OF EFFECTIVE PAGES

Page title/description	Page(s)	Revision No.	Date shown on page(s)
MRBR Title Page	None shown*	12	September 19, 2008.
MRBR Record of Temporary Revisions	None shown*	12	September 19, 2008.
MRBR List of Effective Pages	A–L	None shown*	September 19, 2008.
Appendix 2—Airworthiness Limitation Requirements			
	A2–1 through A2–22	None shown*	September 19, 2007.
	A2–23 through A2–90	None shown*	September 19, 2008.

(*Only the Record of Temporary Revisions of EMBRAER EMB135/EMB145 Maintenance Review Board Report MRB–145/1150, Revision 12, dated September 19, 2008, contains the revision levels that correspond to the revision dates; no other page of the document contains this information.)

EMBRAER Legacy BJ—Maintenance Planning Guide (MPG) MPG–1483, Revision 5, dated March 22, 2007, contains the following effective pages:

LIST OF EFFECTIVE PAGES

Page title/description	Page(s)	Revision No.	Date shown on page(s)
MPG Title Page	None shown*	5	March 22, 2007.
MPG Record of Temporary Revisions	None shown*	5	March 22, 2007.
MPG List of Effective Pages	A–J	None shown*	March 22, 2007.
Appendix 2—Airworthiness Limitation Requirements			
	A2–1 through A2–8, A2–12, A2–14 through A2–16.	None shown*	October 14, 2005.
	A2–9, A2–10, A2–13	None shown*	July 31, 2003.
	A2–11	None shown*	April 1, 2004.
	A2–17 through A2–40	None shown*	March 22, 2007.

(*Only the Record of Temporary Revisions of EMBRAER Legacy BJ—Maintenance Planning Guide MPG–1483, Revision 5, dated March 22, 2007, contains the revision levels that correspond to the revision dates; no other page of the document contains this information.)

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

(2) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone: +55 12 3927–5852 or +55 12 3309–0732; fax: +55 12 3927–7546; e-mail: *distrib@embraer.com.br;* Internet: *http://www.flyembraer.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on May 10, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–11762 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1156; Directorate Identifier 2009–NE–38–AD; Amendment 39–16309; AD 2010–11–04]

RIN 2120–AA64

Airworthiness Directives; Teledyne Continental Motors (TCM) 240, 346, 360, 470, 520, and 550 Series and Rolls-Royce Motors, Ltd. (R–RM) IO–240–A Reciprocating Engines

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing emergency airworthiness directive (AD) 2009–24–52 that was sent previously to all known U.S. owners and operators of TCM 240, 360, 470, 520, and 550 series reciprocating engines. That AD requires before further flight, replacing certain part number (P/N) hydraulic lifters. This AD results from TCM reporting another occurrence of rapid wear on the face of hydraulic lifters, P/Ns 657913, 657915, and 657916, and from the need to expand the applicability of this AD to include the TCM 346 series reciprocating engines and the R–RM IO–240–A reciprocating engines. We are issuing this AD to prevent excessive hydraulic lifter wear, which can result in loss of engine power and loss of control of the airplane.

DATES: This AD becomes effective June 16, 2010. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of June 16, 2010.

We must receive any comments on this AD by August 2, 2010.

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

Contact Teledyne Continental Motors, Inc., P.O. Box 90, Mobile, AL 36601; telephone (251) 438–3411, or go to: *http://tcmlink.com/servicebulletins.cfm,* for the service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Anthony Holton, Aerospace Engineer, Atlanta Certification Office, FAA, Small Airplane Directorate, 1701 Columbia Avenue, College Park, GA 30337; e-mail: *anthony.holton@faa.gov;* telephone (404) 474–5567; fax (404) 474–5606.

SUPPLEMENTARY INFORMATION: On November 18, 2009, we issued emergency AD 2009–24–52, that applies to TCM 240, 360, 470, 520, and 550 series reciprocating engines. That AD requires determining if hydraulic lifters, P/Ns 657913, 657915, and 657916, are installed, and replacing those lifters before further flight. That AD resulted from TCM reporting three occurrences of rapid wear on the face of hydraulic lifters, P/Ns 657913, 657915, and 657916, at five, six, and 38-hours time-in-service (TIS), and from the need to add the TCM 550 series reciprocating engines to the applicability.

Actions Since AD 2009–24–52 was Issued

Since that AD was issued, we have received a report of excessive wear at one-hour TIS. We also determined that we need to expand the applicability of the AD to include the TCM 346 series engines and the R–RM IO–240–A reciprocating engines.

Relevant Service Information

We have reviewed and approved the technical contents of TCM Mandatory Service Bulletin (MSB) No. MSB09–8A, dated December 4, 2009, that describes procedures for inspecting and removing certain TCM engine hydraulic lifters.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other TCM 240, 346, 360, 470, 520, and 550 series and R–RM IO–240–A reciprocating engines of the same type design. We are issuing this AD to prevent excessive hydraulic lifter wear, which can result in loss of engine power and loss of control of the airplane. This AD requires replacing before further flight, hydraulic lifters, P/Ns 657913, 657915, and 657916. You must use the service information described previously to perform the actions required by this AD.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "AD Docket No. FAA–2009–1156; Directorate Identifier 2009–NE–38–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

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 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 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.

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

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

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. 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, Incorporation by reference, Safety.

Adoption of the Amendment

■ Under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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:

2010–11–04 Teledyne Continental Motors (Formerly Continental and Rolls-Royce Motors, Ltd.): Amendment 39–16309. Docket No. FAA–2009–1156; Directorate Identifier 2009–NE–38–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 16, 2010.

Affected ADs

(b) This AD supersedes AD 2009–24–52.

Applicability

(c) This AD applies to all Teledyne Continental Motors (TCM) 240, 346, 360, 470, 520, and 550 series and Rolls-Royce Motors, Ltd. (R–RM) IO–240–A reciprocating engines with hydraulic lifters, part numbers (P/Ns) 657913, 657915, or 657916, installed. These engines are installed on, but not limited to, general aviation airplanes.

Unsafe Condition

(d) This AD results from TCM reporting another occurrence of rapid wear on the face of hydraulic lifters, P/Ns 657913, 657915, and 657916, and from the need to expand the applicability of this AD to include the TCM 346 series engines and the R–RM IO–240–A reciprocating engines. We are issuing this AD to prevent excessive hydraulic lifter wear, which can result in loss of engine power and loss of control of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed before further flight after the effective date of this AD, unless the actions have already been done.

Excluded Engines

(f) If your engine was manufactured or rebuilt before June 19, 2009, and you have not had any hydraulic lifters replaced after June 19, 2009, no action is required.

Determining P/N of Lifters

(g) If your engine was manufactured or rebuilt on or after June 19, 2009, or if any of your hydraulic lifters were replaced on or after June 19, 2009, and you can't determine the P/N of your hydraulic lifters from the engine records:

(1) Use the list of engine serial numbers in Section A of TCM Mandatory Service Bulletin (MSB) No. MSB09–8A, dated December 4, 2009.

(2) Inspect the hydraulic lifters in each cylinder for P/Ns 657913, 657915, and 657916. Use TCM MSB No. MSB09–8A, dated December 4, 2009, Section I. Action Required, paragraphs 1. through 3. to determine the P/N of the lifters.

Replacing the Lifters

(h) If your engine has any affected hydraulic lifters, replace the hydraulic lifters using TCM MSB No. MSB09–8A, dated December 4, 2009, Step 2, paragraphs 2.a.1) through 2.b.4).

Installation Prohibition

(i) After the effective date of this AD, do not install any hydraulic lifters, P/Ns 657913, 657915, or 657916, into any TCM 240, 346, 360, 470, 520, or 550 series or R–RM IO–240–A reciprocating engine.

Alternative Methods of Compliance

(j) The Manager, Atlanta 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.

Special Flight Permits

(k) We will not approve any special flight permits.

Related Information

(l) Contact Anthony Holton, Aerospace Engineer, Atlanta Certification Office, FAA, Small Airplane Directorate, 1701 Columbia Avenue, College Park, GA 30337; e-mail: *anthony.holton@faa.gov;* telephone (404) 474–5567; fax (404) 474–5606, for more information about this AD.

Material Incorporated by Reference

(m) You must use Teledyne Continental Motors Mandatory Service Bulletin No. MSB09–8A, dated December 4, 2009, to perform the actions required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You can get a copy from Teledyne Continental Motors, Inc., P.O. Box 90, Mobile, AL 36601; telephone (251) 438–3411, or go to: *http://tcmlink.com/servicebulletins.cfm.* You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on May 12, 2010.

Peter A. White,

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

[FR Doc. 2010–12177 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0272; Directorate Identifier 2010–CE–009–AD; Amendment 39–16310; AD 2010–11–05]

RIN 2120–AA64

Airworthiness Directives; AVOX Systems and B/E Aerospace Oxygen Cylinders as Installed on Various 14 CFR Part 23 and CAR 3 Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain AVOX Systems and B/E Aerospace oxygen cylinders, as installed on various 14 CFR part 23 or CAR 3 airplanes. This AD requires you to inspect for and remove substandard oxygen cylinders from the airplane. This AD was prompted by the reported rupture of a high-pressure gaseous oxygen cylinder, which had insufficient strength characteristics due to improper heat treatment. We are issuing this AD to prevent an oxygen cylinder from rupturing, which, depending on the location, could result in structural damage and rapid decompression of the airplane, damage to adjacent essential flight equipment, deprivation of the necessary oxygen supply for the flightcrew, and injury to cabin occupants or other support personnel.

DATES: This AD becomes effective on July 6, 2010.

On July 6, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: For service information identified in this AD, contact B/E Aerospace, Inc., Commercial Aircraft Products Group, RGA Department, 10800 Pflumm Road, Lenexa, Kansas 66215; telephone: (913) 338–9800; fax: (913) 338–8419; Internet: *http://www.beaerospace.com;* and AVOX Systems, 225 Erie Street, Lancaster, New York 14086–9502; telephone: (716) 683–5100; fax: (716) 681–1089; Internet: *http://www.avoxsys.com,* as applicable.

To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at *http://www.regulations.gov.* The docket number is FAA–2010–0272; Directorate Identifier 2010–CE–009–AD.

FOR FURTHER INFORMATION CONTACT: David Hirt, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4050; fax: (816) 329–4090; e-mail: *david.hirt@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On March 11, 2010, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain AVOX Systems and B/E Aerospace oxygen cylinders, as installed on various 14 CFR part 23 or CAR 3 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 17, 2010 (75 FR 12713). The NPRM proposed to require removing the affected oxygen cylinder from various 14 CFR part 23 or CAR 3 airplanes and replacing it with a serviceable oxygen cylinder.

Comments

We provided the public the opportunity to participate in developing this AD. We received no comments on the proposal or on the determination of the cost to the public.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD will affect 10,000 airplanes in the U.S. registry.

We estimate the following costs to do the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators based on all airplanes having the affected oxygen cylinder installed
0.5 work-hour × $85 per hour = $42.50	Not applicable	$42.50	$425,000

We estimate the following costs to do any necessary removal and replacement that will be required based on the results of the inspection. We have no way of determining the number of airplanes that may need this replacement:

Labor cost	Parts cost	Total cost per airplane
2 work-hours × $85 per hour = $170	$1,675	$1,845

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 AD.

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include "Docket No. FAA–2010–0272; Directorate Identifier 2010–CE–009–AD" in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. FAA amends § 39.13 by adding the following new AD:

2010–11–05 AVOX Systems and B/E Aerospace: Amendment 39–16310; Docket No. FAA–2010–0272; Directorate Identifier 2010–CE–009–AD.

Effective Date

(a) This AD becomes effective on July 6, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to oxygen cylinders with a capacity of 114/115 cubic feet, approved under United States Department of Transportation Regulations for Type 3HT cylinders, identified in Table 1 of this AD. These oxygen cylinders may be installed on various 14 CFR part 23 and CAR 3 airplanes, certificated in any category. The affected oxygen cylinders may be installed as a component of, but not limited to, the AVOX Systems Inc. and B/E Aerospace cylinder assemblies listed in Table 2 of this AD.

TABLE 1—AFFECTED OXYGEN CYLINDER SERIAL NUMBERS (S/N)

Cylinder manufacturer	Affected S/N
AVOX Systems	ST82307 through ST82309. ST82335 through ST82378. ST82385 through ST82506, except ST82498 (out of service). ST82550 through ST82606. ST82617 through ST82626. ST83896 through ST83905. ST84209 through ST84218. ST84224 through ST84236. ST86138, ST86143, ST86145, ST86150, ST86169, ST86172, and ST86177. ST86299 through ST86307.
B/E Aerospace	K495120 through K495121. K629573 through K629577. K674451 through K674455.

TABLE 2—AFFECTED OXYGEN CYLINDER ASSEMBLY PART NUMBERS (P/N)

Manufacturer	P/Ns
AVOX Systems	*6350A34 series, 800112–03, 800112–10, 800112–13, 801293–03, 801307–00, 801307–01, 801307–02, 801307–03, 801307–07, 801307–09, 801307–23, 801307–24, 801365–04, 801365–14, 801375–00, 801977–05, and *8915 series. (*For example, 6350A34–X–X or 8915XX–XX, where "X" denotes a P/N digit.)
B/E Aerospace	176018–115, 176112–115, 176177–115, 176181–115, and 176529–97.

Subject

(d) Air Transport Association of America (ATA) Code 35: Oxygen.

Unsafe Condition

(e) This AD was prompted by the reported rupture of a high-pressure gaseous oxygen cylinder, which had insufficient strength characteristics due to improper heat treatment. We are issuing this AD to prevent an oxygen cylinder from rupturing, which, depending on the location, could result in structural damage and rapid decompression of the airplane, damage to adjacent essential flight equipment, deprivation of the necessary oxygen supply for the flightcrew, and injury to cabin occupants or other support personnel.

Compliance

(f) To address this problem, you must do the following, unless already done:

(1) Within 60 days after July 6, 2010 (the effective date of this AD), inspect the oxygen cylinder installed in the airplane to determine the serial number. The serial number is stamped into the steel cylinder near the neck. A review of airplane records is acceptable in lieu of this inspection if the serial number of the oxygen cylinder can be positively determined from that review. For any oxygen cylinder that has a serial number identified in Table 1 of this AD, before further flight, remove it from the airplane and replace it with a serviceable oxygen cylinder. Do the inspection and removal following B/E Aerospace Service Bulletin 176000–35–01, dated November 2, 2009; and Zodiac Aerospace AVOX Systems, Inc. Service Bulletin 6084–34–35–01, Revision 1, dated December 9, 2009, as applicable.

(2) As of July 6, 2010 (the effective date of this AD), do not install on any airplane a United States Department of Transportation Type 3HT oxygen cylinder that has a serial number identified in Table 1 of this AD.

Note: United States Department of Transportation hazardous materials regulations apply to the shipping of oxygen cylinders.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: David Hirt, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4050; fax: (816) 329–4090; e-mail: *david.hirt@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Material Incorporated by Reference

(h) You must use B/E Aerospace Service Bulletin 176000–35–01, dated November 2, 2009; and Zodiac Aerospace AVOX Systems, Inc. Service Bulletin 6084–34–35–01, Revision 1, dated December 9, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact B/E Aerospace, Inc., Commercial Aircraft Products Group, RGA Department, 10800 Pflumm Road, Lenexa, Kansas 66215; telephone: (913) 338–9800; fax: (913) 338–8419; Internet: *http://www.beaerospace.com;* and AVOX Systems, 225 Erie Street, Lancaster, New York 14086–9502; telephone: (716) 683–5100; fax: (716) 681–1089; Internet: *http://www.avoxsys.com,* as applicable.

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

(4) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on May 13, 2010.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–12173 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–1063; Airspace Docket No. 09–ANM–22]

Amendment of Class E Airspace; Hoquiam, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will amend existing Class E airspace at Hoquiam, WA. Controlled Class E surface airspace will be continuous at Bowerman Airport, Hoquiam, WA. The FAA is taking this action to enhance the safety and management of aircraft operations at the airport. This action also will correct the airport name.

DATES: Effective date, 0901 UTC, July 29, 2010. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On December 18, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend controlled airspace at Hoquiam, WA (74 FR 67140). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6002 of FAA Order 7400.9T signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by changing the time of operation of Class E surface area airspace to continuous at Bowerman Airport, thereby removing the specific dates and times as stated in advance by a Notice to Airmen. This action also corrects the airport name from Bowerman Field to Bowerman Airport. This action is necessary for the safety and management of IFR operations.

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. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of 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 amends controlled airspace at Bowerman Airport, Hoquiam, WA.

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, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE 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 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009 is amended as follows:

Paragraph 6002. Class E airspace Designated as Surface Areas.

* * * * *

ANM WA E2 Hoquiam, WA [Amended]

Bowerman Airport, WA
(Lat. 46°58′16″ N., long. 123°56′12″ W.)

Within a 4-mile radius of Bowerman Airport, and within 3.5 miles each side of the Bowerman Airport 081° bearing extending from the 4-mile radius to 8.4 miles east of Bowerman Airport, and within 1.4 miles each side of the Bowerman Airport 261° bearing extending from the 4-mile radius to 8.8 miles west of Bowerman Airport.

Issued in Seattle, Washington, on May 14, 2010.

Clark Desing,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2010–12881 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–1101; Airspace Docket No. 09–ANM–24]

Modification of Class E Airspace; West Yellowstone, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will modify Class E airspace at West Yellowstone, MT, to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at West Yellowstone Airport. This will improve the safety and management of Instrument Flight Rules (IFR) operations at the airport. This action also includes minor adjustments in the legal description of the airspace.

DATES: Effective date, 0901 UTC, July 29, 2010. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On December 21, 2009, the FAA published in the **Federal Register** a Notice of proposed rulemaking to modify controlled airspace at West Yellowstone, MT (74 FR 67836). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9T signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E surface airspace extending upward from 700 feet above the surface, at West Yellowstone Airport, to accommodate IFR aircraft executing new RNAV (GPS) SIAP's at the airport. This rule also makes minor changes to the legal description of the airspace to coincide with the National Aeronautical Charting Office. This action is necessary for the safety and management of IFR operations. With the exception of editorial changes and the changes described above, this rule is the same as that proposed in the NPRM.

The FAA has determined 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 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. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of 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 establishes additional controlled airspace at West Yellowstone Airport, West Yellowstone, MT.

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, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE 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 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009 is amended as follows:

Paragraph 6005. Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANM MT E5 West Yellowstone, MT

West Yellowstone, Yellowstone Airport, MT
(Lat. 44°41′18″ N., long. 111°07′04″ W.)

That airspace extending upward from 700 feet above the surface within 4.3 miles west and 8.3 miles east of the 026° and 206° bearings of the Yellowstone Airport extending from 8.3 miles northeast to 23.3 miles southwest of the Yellowstone Airport; that airspace extending upward from 1,200 feet above the surface within 4.3 miles each side of the 209° bearing from lat. 44°34′32″ N., long. 111°11′51″ W. extending to 36.2 miles southwest, and within 5 miles north and 4.3 miles south of the 304° bearing from lat. 44°34′32″ N., long. 111°11′51″ W. extending to the east edge of V–343; that airspace extending upward from 10,700 feet MSL within a 25.3-mile radius of lat. 44°34′32″ N., long. 111°11′51″ W. extending clockwise from the 081° bearing from lat. 44°34′32″ N., long. 111°11′51″ W. to 4.3 miles east of the 236° bearing from lat. 44°34′32″ N., long. 111°11′51″ W., and within 4.3 miles each side of the 236° bearing from lat. 44°34′32″ N., long. 111°11′51″ W. extending to 43.5 miles southwest; that airspace extending upward from 10,700 feet MSL within 9 miles south and 5 miles north of the 304° bearing from lat. 44°34′32″ N., long. 111°11′51″ W. extending to the east edge of V–343; that airspace extending upward from 12,000 feet MSL within a 30.5-mile radius of lat. 44°34′32″ N., long. 111°11′51″ W. extending clockwise from the 026° bearing from lat. 44°34′32″ N., long. 111°11′51″ W. to the 081° bearing from lat. 44°34′32″ N., long. 111°11′51″ W; that airspace extending upward from 12,500 feet MSL within 4.3 miles each side of the 293°, 329° and 043° bearing from lat. 45°00′19″ N., long. 110°53′49″ W. extending to 25.16 miles west to 30.57 miles northwest to 54.24 miles north, and within 4.3 miles each side of the 312° bearing from lat. 44°31′10″ N., long. 111°14′03″ W. extending to 25.20 miles northwest, excluding that portion that overlies the east edge of V–343 and south edge of V–2 and V–86; that airspace extending upward from 13,000 feet MSL, within a 30.5-mile radius of lat. 44°34′32″ N., long. 111°11′51″ W. extending clockwise from the 313° bearing to the 026° bearing from lat. 44°34′32″ N., long. 111°11′51″ W. excluding that portion that overlies V–298 and V–343. This Class E airspace area shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Seattle, Washington, on May 14, 2010.

Clark Desing,

Manager, Operations Support Group, Western Service Center .

[FR Doc. 2010–12908 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2010–0113]

RIN 1625–AA08

Special Local Regulation for Marine Event; Maryland Swim for Life, Chester River, Chestertown, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the enforcement period of special local regulations for a recurring marine event involving a swimming competition. This action is intended to restrict vessel traffic in a portion of the Chester River, near Chestertown, MD during the *Maryland Swim for Life.* Special local regulations are necessary to provide for the safety of life on navigable waters during the event.

DATES: This rule is effective from 5:30 a.m. to 2:30 p.m. on July 10, 2010.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–0113 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0113 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Mr. Ronald L. Houck, Project Manager, Coast Guard Sector Baltimore Waterways Management Division, telephone 410–576–2674, e-mail *Ronald.L.Houck@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 5, 2010, we published a notice of proposed rulemaking (NPRM) entitled "Special Local Regulation for Marine Event; Temporary Change of Dates for Recurring Marine Event in the Fifth Coast Guard District" in the **Federal Register** (75 FR 17103). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Basis and Purpose

This regulation temporarily changes the enforcement period of special local regulations for a recurring marine event in 33 CFR 100.501 and 33 CFR Table to § 100.501, line No. 21. On July 10, 2010, the District of Columbia Aquatics Club will sponsor the "Maryland Swim for Life" on the waters of the Chester River near Chestertown, MD. The event is an open water swimming competition held on the waters of the Chester River, near Chestertown, Maryland. Approximately 150 swimmers will start from Rolph's Wharf and swim up-river 2.5 miles then swim down-river returning back to Rolph's Wharf. A large fleet of support vessels accompany the swimmers.

The regulation at 33 CFR 100.501 and 33 CFR Table to 100.501 is effective annually for this marine event on either the third Saturday of June or the third Saturday of July, which is June 19th and July 17th, respectively, this year. Because the date of the event this year differs from the effective date in the CFR, this rule temporarily changes the effective date in the existing regulation. The regulation in the CFR will be enforced for the duration of the event this year on July 10th instead of June 19th or July 17th.

To ensure the safety of participants, spectators, support and transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the regulated area during the competition. Under provisions of 33 CFR 100.501, from 5:30 a.m. to 2:30 p.m. on July 10, 2010, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander. Vessel traffic may be allowed to transit the regulated area only when the Patrol Commander determines it is safe to do so.

Discussion of Comments and Changes

The Coast Guard received no comments in response to the NPRM. No public meeting was requested and none was held.

Regulatory Analyses

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

Regulatory Planning and Review

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

Although this rule prevents traffic from transiting a portion of certain waterways during specified events, the effect of this regulation will not be significant due to the limited duration the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts, local radio stations and area newspapers so mariners can adjust their plans accordingly. Additionally, this rulemaking does not change the permanent regulated areas that have been published in 33 CFR 100.501, Table to § 100.501. In some cases vessel traffic may be able to transit the regulated area when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the area where the marine event is being held. This regulation will not have a significant impact on a substantial number of small entities because it will be enforced only during marine events that have been permitted by the Coast Guard Captain of the Port. The Captain of the Port will ensure that small entities are able to operate in the areas where events are occurring when it is safe to do so. In some cases, vessels will be able to safely transit around the regulated area at various times, and, with the permission of the Patrol Commander, vessels may transit through the regulated area. Before the enforcement period, the Coast Guard will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. This rule involves implementation of regulations within 33 CFR Part 100 applicable to organized marine events on the navigable waters of the United States that could negatively impact the safety of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, canoe and sail board racing. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Effective from 5:30 a.m. to 2:30 p.m. on July 10, 2010, in § 100.501, Table to § 100.501, suspend line No. 21 and add Line No. 60 to read as follows:

§ 100.501 Special Local Regulations; Marine Events in the Fifth Coast Guard District.

* * * * *

Table To § 100.501. All coordinates listed in the Table to § 100.501 reference Datum NAD 1983.

COAST GUARD SECTOR DELAWARE BAY—COTP ZONE

No.	Date	Event	Sponsor	Location
*	*	*	*	* * * *
60	July 10, 2010	Maryland Swim for Life.	District of Columbia Aquatics Club.	The waters of the Chester River from shoreline to shoreline, bounded on the south by a line drawn at latitude 39°10′16″ N, near the Chester River Channel Buoy 35 (LLN–26795) and bounded on the north at latitude 39°12′30″ N by the Maryland S.R. 213 Highway Bridge.

Dated: May 18 2010.

Mark P. O'Malley,

Captain, U.S. Coast Guard, Captain of the Port Baltimore, MD

[FR Doc. 2010–12976 Filed 5–28–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0374]

Drawbridge Operation Regulations; Fox River, Green Bay, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: Commander, Ninth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Main Street Bridge at Mile 1.21 over the Fox River, at Green Bay, WI. This deviation will temporarily change the operating schedule of the bridge to accommodate the 2010 Tall Ships event in the city of Green Bay, WI. This temporary deviation allows the bridge to open once an hour on the hour for recreational vessels and commercial vessels less than 300 gross tons. The bridge will open on demand at all times for public vessels, tugs, and commercial vessels 300 gross tons or greater.

DATES: This deviation is effective from August 13, 2010 through August 15, 2010 between the hours of 9 a.m. and 5 p.m. daily.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0374 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0374 in the "Keyword" box and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216–902–6085, e-mail; *lee.d.soule@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The City of Green Bay, Wisconsin, who owns and operates this drawbridge, has requested a temporary deviation from the current operating regulations set forth in 33 CFR 117.1087 to facilitate efficient management of all transportation needs and provide timely public safety services during this special event. In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: May 10, 2010.

F.M. Midgette,

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

[FR Doc. 2010–12977 Filed 5–28–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0355]

Drawbridge Operation Regulations; Newtown Creek, Dutch Kills, English Kills, and Their Tributaries, NY, Maintenance

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Greenpoint Avenue Bridge across Newtown Creek, mile 1.3, New York. This deviation allows the bridge to remain in the closed position for two six week closures to facilitate bridge rehabilitation maintenance.

DATES: This deviation is effective from July 5, 2010 through August 13, 2010 and from August 30, 2010 through October 8, 2010.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0355 and are available online at *http://www.regulations.gov,* inserting USCG–2010–0355 in the "Keyword" and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION: The Greenpoint Avenue Bridge, across Newtown Creek at mile 1.3, at New York, has a vertical clearance in the closed position of 26 feet at mean high water and 31 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.801.

The owner of the bridge, New York City Department of Transportation (NYCDOT), requested a temporary deviation from the regulations to facilitate scheduled bridge rehabilitation maintenance.

Under this temporary deviation the Greenpoint Avenue Bridge may remain in the closed position from July 5, 2010, through August 13, 2010, and from August 30, 2010, through October 8, 2010. Vessels that can pass under the bridge in the closed position may do so at any time.

Waterway users were advised of the requested bridge closures and offered no objection.

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

Dated: May 17, 2010.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2010–12979 Filed 5–28–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0414]

Drawbridge Operation Regulations; Root River, Racine, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: Commander, Ninth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Main Street Bridge at Mile 0.31 and the State Street Bridge at Mile 0.53 over the Root River, at Racine, WI. This deviation will temporarily change the operating schedule of the bridge to accommodate the City's special summer events for 2010. This temporary deviation allows the bridge to remain secured to masted navigation on the dates and times listed.

DATES: This deviation is effective on June 19, 2010 from 7:40 a.m. to 10:40 a.m. for the Main Street Bridge and on July 5, 2010 and July 6, 2010 from 7 a.m. to 12:30 p.m. and 8:05 p.m. to 9:40 p.m. each day for the Main and State Street bridges.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0414 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0414 in the "Keyword" box and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216–902–6085, e-mail; *lee.d.soule@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The City of Racine, Wisconsin, who owns and operates both drawbridges, has requested a temporary deviation from the current operating regulations set forth in 33 CFR 117.1095 to facilitate efficient management of all transportation needs and provide timely public safety services during these special events. In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time periods. These deviations from the operating regulations are authorized under 33 CFR 117.35.

Dated: May 13, 2010.

F.M. Midgette,

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

[FR Doc. 2010–12981 Filed 5–28–10; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 111

Restricting the Mailing of Replica or Inert Explosive Devices

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) 601.11, to implement a new standard restricting the mailing of replica or inert explosive devices, such as simulated grenades that are not dangerous but bear a realistic appearance to explosive devices, to Registered Mail™ service only.

DATES: *Effective Date:* July 6, 2010.

FOR FURTHER INFORMATION CONTACT: Evans King, 202–268–4982, or Mary J. Collins, 202–268–5440.

SUPPLEMENTARY INFORMATION: The Postal Service published a proposed rule in the **Federal Register** on January 5, 2010 (75 FR 282–283), which added restrictions to the mailing of replica and inert explosive devices in the mail. The Postal Service did not receive any comments in response to this proposal. Therefore, we will be revising the DMM as proposed. The Postal Service will specifically identify these items using the term "replica or inert explosive devices" rather than the proposed "replica or inert munitions." The Postal Service is also implementing a revised process for mailing such items via Registered Mail service only rather than prohibiting them from the mail altogether.

In the past, postal operations have been disrupted and facilities have been evacuated when replica or inert explosive devices have been discovered in the mail. Such evacuations resulted in unnecessary expense and loss of productivity to the Postal Service and have jeopardized USPS® service commitments. We believe the implementation of the DMM revisions described in this final rule will minimize the chances of operational disruptions caused by replica or inert explosive devices and at the same time allow mailers to continue to use the mail for shipping these items.

The Postal Service herby adopts the following changes to the *Mailing Standards for the United States Postal Service,* Domestic Mail Manual (DMM), which is incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

■ Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

* * * * *

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

600 Basic Standards for All Mailing Services

601 Mailability

* * * * *

11.0 Other Restricted and Nonmailable Matter

* * * * *

[Renumber current 11.5 through 11.21 as 11.6 through 11.22 and insert new 11.5 to read as follows:]

11.5 Replica or Inert Explosive Devices

Replica or inert explosive devices that bear a realistic appearance to explosive devices such as simulated grenades, but that are not dangerous, are permitted in the mail when *all* of the following conditions are met:

a. The package is presented by the mailer at a retail counter.

b. Registered Mail service is used. (Registered Mail service is only available for items mailed as either First-Class Mail or Priority Mail.)

c. The address side of the package is labeled with "REPLICA EXPLOSIVE" using at least 20 point type or letters at least ¼-inch high.

* * * * *

We will publish an amendment to 39 CFR Part 111 to reflect these changes.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 2010–12887 Filed 5–28–10; 8:45 am]

BILLING CODE 7710–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket No. 80–286; FCC 10–89]

Jurisdictional Separations and Referral to the Federal-State Joint Board

AGENCY: Federal Communications Commission.

ACTION: Interim rule.

SUMMARY: Jurisdictional separations is the process by which incumbent local exchange carriers (incumbent LECs) apportion regulated costs between the intrastate and interstate jurisdictions. In this document, the Commission extends until June 30, 2011, the current freeze of part 36 category relationships and jurisdictional cost allocation factors used in jurisdictional separations. Extending the freeze provides stability for, and avoids imposing undue burdens on, carriers that must comply with the Commission's separations rules while the Commission considers issues relating to comprehensive reform of the jurisdictional separations process.

DATES: This interim rule is effective July 1, 2010.

FOR FURTHER INFORMATION CONTACT: Daniel Ball, Attorney Advisor, at 202–418–1577, Pricing Policy Division, Wireline Competition Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (R&O) in CC Docket No. 80–286, FCC 10–89, released on May 25, 2010. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

1. Jurisdictional separations is the process by which incumbent LECs apportion regulated costs between the intrastate and interstate jurisdictions. The freeze of Part 36 category relationships and jurisdictional cost allocation factors was first implemented for five years on July 1, 2001, 66 FR 33202, June 21, 2001 (2001 Separations Freeze Order), extended approximately three years on June 23, 2006, 71 FR 29843, May 24, 2006 (2006 Separations Freeze Extension Order), and extended a second time until June 30, 2010 74 FR 23955, May 22, 2009 (2009 Separations Freeze Extension Order). On March 29, 2010, the Commission released a notice of proposed rulemaking seeking comment on a further extension of the freeze until June 30, 2011. 75 FR 17109 (Apr. 5, 2010) (NPRM). The overwhelming majority of parties filing comments in response to the NPRM supported extension of the freeze. This R&O extends the current freeze until June 30, 2011. Extending the freeze provides stability for, and avoids imposing undue burdens on, carriers that must comply with the Commission's separations rules while the Commission, working with the Federal-State Joint Board on Separations, considers issues relating to comprehensive separations reform.

2. The extended freeze will be implemented as described in the 2001 Separations Freeze Order. Specifically, price-cap carriers would use the same relationships between categories of investment and expenses within part 32 accounts and the same jurisdictional allocation factors that have been in place since the inception of the current freeze on July 1, 2001. Rate-of-return carriers would use the same frozen jurisdictional allocation factors, and would use the same frozen category relationships if they had opted previously to freeze those as well.

I. Procedural Matters

A. Final Regulatory Flexibility Certification

3. As required by the Regulatory Flexibility Act, the Commission certifies that these regulatory amendments will not have a significant impact on small business entities.

B. Paperwork Reduction Act

4. The R&O does not propose any new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new, modified, or proposed "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, 44 U.S.C. 3506(c)(4).

C. Congressional Review Act

5. The Commission will send a copy of the R&O in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

II. Ordering Clauses

6. Pursuant to sections 1, 4(i) and (j), 214(e), 254, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 214(e), 254, and 410, the R&O is adopted.

7. The report and order shall be effective July 1, 2010.

8. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of the R&O, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 36

Communications common carriers, Reporting and recordkeeping requirements, Telephone, and Uniform System of Accounts.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Interim Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 36 as follows:

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

■ 1. The authority citation for part 36 continues to read:

Authority: 47 U.S.C. Secs. 151, 154 (i) and (j), 205, 221(c), 254, 403, and 410.

■ 2. In 47 CFR part 36 remove the words "June 30, 2010" and add, in their place, the words "June 30, 2011" wherever they appear in the following places:

■ a. Section 36.3(a), (b), (c), (d), and (e);
■ b. Section 36.123(a)(5), and (a)(6);
■ c. Section 36.124(c), and (d);
■ d. Section 36.125(h), and (i);
■ e. Section 36.126(b)(5), (c)(4), (e)(4), and (f)(2);
■ f. Section 36.141(c);
■ g. Section 36.142(c);
■ h. Section 36.152(d);
■ i. Section 36.154(g);
■ j. Section 36.155(b);
■ k. Section 36.156(c);
■ l. Section 36.157(b);
■ m. Section 36.191(d);
■ n. Section 36.212(c);
■ o. Section 36.214(a);
■ p. Section 36.372;
■ q. Section 36.374(b), and (d);
■ r. Section 36.375(b)(4), and (b)(5);
■ s. Section 36.377(a) introductory text, (a)(1)(ix), (a)(2)(vii), (a)(3)(vii), (a)(4)(vii), (a)(5)(vii), and (a)(6)(vii);
■ t. Section 36.378(b)(1);
■ u. Section 36.379(b)(1), and (b)(2);
■ v. Section 36.380(d), and (e);
■ w. Section 36.381(c) and (d); and
■ x. Section 36.382(a).

[FR Doc. 2010–13046 Filed 5–28–10; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 75, No. 104
Tuesday, June 1, 2010

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 AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2010-0002]

RIN 0579-AD16

Importation of Peppers From Panama

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow, under certain conditions, the importation of commercial shipments of peppers from Panama into the United States without treatment. The conditions to which the proposed importation of peppers would be subject, including trapping, pre-harvest inspection, and shipping procedures, are designed to prevent the introduction of quarantine pests into the United States. This action would allow for the importation of peppers from Panama into the United States, while continuing to provide protection against the introduction of quarantine pests.

DATES: We will consider all comments that we receive on or before August 2, 2010.

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

- Federal eRulemaking Portal: Go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0002*) to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send one copy of your comment to Docket No. APHIS-2010-0002, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2010-0002.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at (*http://www.aphis.usda.gov*).

FOR FURTHER INFORMATION CONTACT: Mr. David Lamb, Import Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 734-0627.

SUPPLEMENTARY INFORMATION:

Background

The regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56 through 319.56-50, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

In 2004, in response to a request from the Governments of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, the Animal and Plant Health Inspection Service (APHIS) prepared a pest risk assessment (PRA) to examine plant pest risks associated with the importation of fresh peppers into the United States from these countries. Recently, the national plant protection organization (NPPO) of Panama has requested that APHIS amend the regulations to allow peppers from Panama to be imported into the United States. As part of our evaluation of Panama's request, we have updated the 2004 PRA to include Panama as an exporting country and have prepared a risk management document. Copies of the PRA and risk management document may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for a link to Regulations.gov and information on the location and hours of the reading room).

The updated PRA, titled "Importation of Fresh Pepper–*Capsicum annuum* L., *Capsicum baccatum* L., *Capsicum chinense* Jacq., *Capsicum frutescens* L., and *Capsicum pubescens* Ruiz & Pav.–Fruit with Stems from Central America into the United States" (April 2009), evaluates the risks associated with the importation of peppers into the continental United States. The PRA identified 12 pests of quarantine significance present in Central America, including Panama, that could be introduced into the United States via peppers, including 8 insect pests, 1 bacterium, 1 fungus, and 2 viruses.

Insect pests:

Mexican fruit fly (Mexfly, *Anastrapha ludens*).
Mediterranean fruit fly (Medfly, *Ceratitis capitata*).
The weevil *Faustinus ovatipennis.*
Pea leafminer (*Liriomyza huidobrensis*).
Tomato fruit borer (*Neoleucinodes elegantalis*).
Lantana mealybug (*Phenacoccus parvus*).
Passionvine mealybug (*Planococcus minor*).
Melon thrips (*Thrips palmi*).

Bacterium:

Bacterial wilt (*Ralstonia solanacearum* race 3 biovar 2).

Fungus:

The rust fungus *Puccinia pampeana.*

Viruses:

Andean potato mottle virus.
Tomato severe leaf curl virus.

Pest List Changes

The updates to the PRA did not result in significant changes to the pest list established in the 2004 PRA, but there are two additional pests that have been added to the list of pests for which inspection is required: Bacterial wilt and tomato severe leaf curl virus. We added those pests to the list based on scientific analysis and interception records as detailed in the PRA. As discussed below, symptoms of these two pests are macroscopic and easily detectable via the required field inspections.

We have also removed two pests from the list of pests for which peppers from Central America must be inspected: The banana moth (*Opogona sacchari*) and

tomato yellow mosaic virus. In the 2004 PRA, peppers were determined to be a minor host for the banana moth. Since that time, there have been no interceptions of banana moth associated with shipments of peppers from Central America. Further, banana moth larvae are scavengers of dried and/or harvested vegetable material, and feed only occasionally on living material. The pest primarily attacks the plant stems and decaying pseudostems; however, since pepper stems are not woody or fleshy, and damaged fruits and tissues are likely to be culled during post-harvest processing, we find it unlikely that the pest will follow the importation pathway.

Our basis for including tomato yellow mosaic virus in the 2004 PRA was the result of its identification as a potential pest of concern in the literature. However, upon further review, tomato yellow mosaic virus is not widely reported to occur in Central America. In addition, we found no evidence that this virus affects *Capsicum* spp. For these reasons, we are proposing to remove the banana moth and tomato yellow mosaic virus from the list of pests for which peppers from Central America must be inspected.

Systems Approach

To mitigate the risks presented by Mexfly and Medfly, we propose to utilize the systems approach found in § 319.56-40. The regulations in § 319.56-40 contain specific phytosanitary measures that vary depending upon area freedom from Mexfly and Medfly. These measures include:

- In Medfly-free areas: Pre-harvest inspection for the pests of concern conducted by the NPPO of Panama and a phytosanitary certificate issued by the NPPO certifying the pest-free status of the growing area and the shipment.
- In areas where Medfly or Mexfly exists: Peppers must be grown in registered production sites with pest-exclusionary greenhouses, trapping for Medfly or Mexfly must take place as specified, peppers must be packed in pest-exclusionary packinghouses, and export certification with issuance of an accompanying phytosanitary certificate must be completed.

The remaining pests of concern exhibit symptoms that are macroscopic and detectable upon visual inspection in the production areas or during pre-export or port-of-entry inspections. Specifically:

- The weevil *Faustinus ovatipennis* feeds on leaves, stem, inflorescence, and fruit. Both larvae and adults are external feeders and, as a result, easily observed.
- Pea leafminers spend a majority of their life cycle in larval form, mining host leaves. These mines are easily detectable via visual inspection.
- Tomato fruit borer larvae penetrate the fruit and may cause the fruit to fall or become otherwise unmarketable. More mature larvae create large exit holes in the fruit that can be easily detected. In addition, the screen size required by the systems approach in § 319.56-40 is too small to allow the entry of adult tomato fruit borers.
- Latana mealybug and passionvine mealybug are both external pests that are white in color. They are easily detectable on the darker skin of the host. In addition, these pests may also cause deformities in the plant, making infestation obvious.
- Melon thrips cause leaves to yellow and die. Terminal bud growth may be arrested and fruits may be scarred or deformed.
- Bacterial wilt causes wilting of plant leaves without yellowing. In addition, the roots and lower part of the stem undergo visible browning.
- The rust fungus *Puccinia pampeana* causes yellow or orange rust pustules to form on the pepper fruit stem which are easily detectable via visual inspection.
- The Andean potato mottle virus is easily observable on mature plants in the field. Symptoms include mottling of the plant and other plant deformities. In many cases the fruit will not develop and the plants themselves may be dwarfed.
- The tomato severe leaf curl virus involves an initial upward cupping of the leaves, followed by an inward roll. In severe cases, the leaves roll up until the leaflets overlap. Symptomatic leaves become thickened and leathery.

Commercial Consignments

The commodity imports would be restricted to commercial consignments only. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control. Commercial consignments, as defined in § 319.56-1, are lots of fruits or vegetables that an inspector identifies as having been imported for sale and distribution. Identification of a particular consignment as commercial is based on a variety of indicators, including, but not limited to, the quantity of produce, the type of packaging, identification of a grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer. Commercially produced fruit in Panama are already subjected to standard cultural and post-harvest practices that reduce the risk associated with plant pests. While not specifically required by this proposal, standard cultural practices other than the twice yearly application of broad spectrum fungicides (e.g., the regular use of sanitation measures, irrigation, fertilization, and pest control) help to further ensure that the pests of concern do not follow the pathway. All export orchards are registered production sites with traceback capability. Harvested fruit is moved to the packinghouses in a manner that would preclude infestation by pests. Culling of blemished and damaged fruit occurs in the field and during the post-harvest commercial processing of the fruit.

The regulations in § 319.56-6 provide that all imported fruits and vegetables shall be inspected, and shall be subject to such disinfection at the port of first arrival as may be required by an inspector. The pre-export inspection conducted by APHIS personnel as part of preclearance activities in the country of export typically serves to satisfy the inspection requirement. Section 319.56-6 also provides that any shipment of fruits and vegetables may be refused entry if the shipment is so infested with plant pests that an inspector determines that it cannot be cleaned or treated. We believe that the proposed conditions described above, as well as all other applicable requirements in § 319.56-6, would be adequate to prevent the introduction of plant pests into the United States with peppers imported from Panama.

We therefore propose to add Panama to the list of countries in § 319.56-40, from which importations of peppers are allowed.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Panama exported an average of about 20 metric tons (MT) of peppers to the United States annually from 1998 to 2001. The United States has not imported peppers from Panama since 2001. We model three levels of pepper exports to the United States from Panama, of increasing magnitude: (i) 20 MT; (ii) the maximum annual quantity exported by Panama to all countries in the most recent years it had export data (29 MT); and (iii) 10 times the maximum quantity exported (290 MT). The largest assumed level of U.S. imports is less than is 0.02 percent of average annual U.S. consumption. Even when assuming the largest import quantity and no displacement of imports from other countries, the welfare loss for U.S. small-entity producers would be equivalent to less than 0.05 percent of their average revenue. U.S. producers of peppers are predominantly small. Other small entities that could be affected by the rule include fresh pepper importers.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule would allow peppers to be imported into the United States from Panama. If this proposed rule is adopted, State and local laws and regulations regarding peppers imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

■ Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 319.56-40 is amended by revising the introductory text of the section and paragraphs (a)(2), (b)(3)(v), and (c)(3)(v) to read as follows.

§ 319.56-40 Peppers from certain Central American countries.

Fresh peppers (*Capsicum* spp.) may be imported into the United States from Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama only under the following conditions and in accordance with all other applicable provisions of this subpart:

(a) * * *

(2) A pre-harvest inspection of the growing site must be conducted by the national plant protection organization (NPPO) of the exporting country for the weevil *Faustinus ovatipennis*, pea leafminer, tomato fruit borer, lantana mealybug, passionvine mealybug, melon thrips, bacterial wilt, the rust fungus *Puccinia pampeana*, Andean potato mottle virus, and tomato severe leaf curl virus, and if these pests are found to be generally infesting the growing site, the NPPO may not allow export from that production site until the NPPO has determined that risk mitigation has been achieved.

* * * * *

(b) * * *

(3) * * *

(v) The greenhouse must be inspected prior to harvest for the weevil *Faustinus ovatipennis*, pea leafminer, tomato fruit borer, lantana mealybug, passionvine mealybug, melon thrips, bacterial wilt, the rust fungus *Puccinia pampeana*, Andean potato mottle virus, and tomato severe leaf curl virus. If these pests, or other quarantine pests, are found to be generally infesting the greenhouse, export from that production site will be halted until the exporting country's NPPO determines that the pest risk has been mitigated.

* * * * *

(c) * * *

(3) * * *

(v) The greenhouse must be inspected prior to harvest for the weevil *Faustinus ovatipennis*, pea leafminer, tomato fruit borer, lantana mealybug, passionvine mealybug, melon thrips bacterial wilt, the rust fungus *Puccinia pampeana*, Andean potato mottle virus, and tomato severe leaf curl virus. If these pests, or other quarantine pests, are found to be generally infesting the greenhouse, export from that production site will be halted until the exporting country's NPPO determines that the pest risk has been mitigated.

* * * * *

Done in Washington, DC, this 24th day of May 2010.

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–13002 Filed 5–28–10: 12:33 pm]

BILLING CODE 3410–34–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–0073]

RIN 1625–AA09

Drawbridge Operation Regulation; Perquimans River, Hertford, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Coast Guard is withdrawing its notice of proposed rulemaking concerning the proposed change to the regulations that governed the operation of the US17 Bridge, at mile 12.0, across Perquimans River at Hertford, NC. The requested change would have allowed the bridge to operate without a tender during specific times of the year on an advance notice basis.

DATES: The notice of proposed rulemaking is withdrawn on June 1, 2010.

ADDRESSES: The docket for this withdrawn rulemaking is available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov*, inserting USCG–2009–0073 in the "Keyword" box and then clicking "Search".

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, call or e-mail Sandra S. Elliott, Fifth Coast Guard District; telephone (757) 398–6557, e-mail

Sandra.s.elliott@uscg.mil. If you have questions on viewing material in the docket call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 2009, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Perquimans River, Hertford, NC" in the Federal Register (74 FR 10850–10853). The rulemaking would have allowed the drawbridge to operate on an advance notice basis during specific times of the year. Officials from the Town of Hertford commented that not maintaining a tender during peak boating times would have an adverse impact on public safety.

Withdrawal

The North Carolina Department of Transportation (NCDOT), responsible for the operation of the US17 Bridge, had requested advance notification of vessel openings during specific times of the year due to the infrequency of requests for vessel openings of the drawbridge.

The Coast Guard received several comments opposing changes to the proposed rulemaking. We conducted a lengthy and thorough investigation that included a site visit and a meeting with officials of the Town of Hertford. The Coast Guard met with the Mayor, Town Manager, Town Planner and a representative from NCDOT. We also met separately with a marina owner and the Chief of the Water Rescue team.

Our investigation along with the majority of the comments revealed that the rulemaking could impose critical service delays to commercial and recreational boaters and impede the ability of rescue boats to arrive promptly on scene. The withdrawal is based on the reason that this change would not improve the schedule for roadway and waterway users.

Authority

This action is taken under the authority of 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

Dated: May 11, 2010.

Wayne E. Justice,

Real Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2010–12980 Filed 5–28–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AN45

Responding To Disruptive Patients

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) regulation that authorizes appropriate action when a patient engages in disruptive behavior at a VA medical facility. VA needs to update its current regulation to reflect modern medical care and ethical practices. The proposed rule would authorize VA to modify the time, place, and/or manner in which VA provides treatment to a patient, in order to ensure the safety of others at VA medical facilities, and to prevent any interference with the provision of medical care.

DATES: *Comment Date:* Comments on the proposed rule must be received by VA on or before August 2, 2010.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to "RIN 2900–AN45—Responding To Disruptive Patients." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. This is not a toll free number. In addition, during the comment period, comments may be viewed online at *http://www.Regulations.gov* through the Federal Docket Management System (FDMS).

FOR FURTHER INFORMATION CONTACT: Roscoe Butler, Deputy Director, Business Policy, Chief Business Office (163), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–1586. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. chapters 17 and 18, VA has authority to provide medical care to certain veterans and nonveterans. VA is required, per 38 U.S.C. 1721, to prescribe rules and regulations to promote good conduct on the part of VA patients. VA has implemented this authority in 38 CFR part 17.

Regarding the rights of patients receiving VA care, 38 CFR 17.33(a) prescribes, in part, that patients have "a right to be treated with dignity in a humane environment that affords them both reasonable protection from harm and appropriate privacy with regard to their personal needs." Patients also have "a right to receive, to the extent of eligibility therefor under the law, prompt and appropriate treatment for any physical or emotional disability." Section 17.33(b) also prescribes rights with respect to visitations and communications, clothing, personal possessions, money, social interaction, exercise, and worship for VA residents and inpatients. These rights may be restricted by the appropriate health care professional in certain circumstances. *See* 38 CFR 17.33(c). The restrictions authorized by § 17.33(c), however, do not apply to outpatients and only cover restrictions on the listed rights. In certain cases, VA must restrict the provision of medical care to a patient in order to prevent harm to other patients and VA staff and disruptions in VA's provision of medical care due to the patient's behavior.

VA regulations also prescribe rules of conduct for patients and other individuals who have access to VA facilities. *See* 38 CFR 1.218. In particular, § 1.218(a)(5) prohibits persons on VA property from causing a wide variety of disturbances, including creating "loud or unusual noise," obstructing public areas, and impeding or disrupting "the performance of official duties by Government employees." The sole enforcement mechanism provided by paragraph (a)(5) is "arrest and removal from the premises." 38 CFR 1.218(a)(5). VA has determined that arrest is generally not an appropriate remedy in a situation where the Department must balance the rights and needs of a disruptive patient against the need to protect other patients, guests, and staff. Some patients establish a pattern of disruptive behavior when interacting with VA personnel or when they are on VA property, and we believe that by understanding these patterns of behavior, planning for such behavior in advance, and setting safe conditions for care delivery, we can intervene in ways that can prevent subsequent episodes requiring removal and arrest.

In addition to §§ 1.218 and 17.33, the behavior of patients is specifically governed by current 38 CFR 17.106. It requires, in part, that VA maintain the good conduct of patients through "corrective and disciplinary procedure."

However, current § 17.106, which VA promulgated in 1973 and last amended over 10 years ago, does not adequately reflect modern practice or VA's policy regarding disruptive patients in the health care setting, which opposes the use of punishment in the management of disruptive patients. Instead, it reflects the view that patients exhibiting disruptive behavior must be punished. For example, current § 17.106 emphasizes disciplining patients who do not engage in "good conduct," and includes measures (such as withholding pass privileges) that do not differentiate between providing care and ensuring the safety of others. Moreover, the current rule could be viewed as interfering with VA's legal obligation to provide medical care to certain veterans and nonveterans. Accordingly, VA has determined that amendments to current regulations are necessary to implement its policy regarding disruptive patients, which emphasizes continuation of treatment.

We propose to amend § 17.106 to prescribe the remedial measures VA will take when a patient is disruptive and the procedures for implementing those measures. VA intends that the proposed rule would minimize the risk of a particular patient jeopardizing the health or safety of others, or disrupting the safe provision of medical care to another patient, in a VA medical facility.

In proposed § 17.106(a), we would define "VA medical facility" to mean any VA medical center, outpatient clinic, or domiciliary. We would not include VA nursing homes (also referred to as community living centers) because the limitations on the time, place, and manner for delivering care are not applicable to patients in this residential setting.

Proposed paragraph (b) would authorize VA to restrict the time, place, and/or manner of the provision of a patient's medical care if the patient's behavior at a VA medical facility has or could jeopardize the health or safety of other patients, VA staff, or guests at the facility, or otherwise interfere with the delivery of safe medical care to another patient at the facility. Decisions regarding these restrictions would be made by the VA medical facility Chief of Staff or his or her designee. An appropriate designee might include, for example, a Disruptive Behavior Committee (DBC). VA has mandated DBCs at all of the Department's medical centers, and these committees regularly assess disruptive behavior. As such, they have developed expertise in this area.

Proposed paragraph (b) would also set forth procedures for implementing these determinations. Thus, any order restricting a patient's care would need to be in writing and signed by the Chief of Staff or designee with a copy entered into the patient's VA medical record. The Chief of Staff or designee would provide the patient a copy of the order and an explanation of the procedure for an administrative review under paragraph (e) as soon as possible after issuance. Unless otherwise stated in the order, these restrictions would take effect upon the signature of the Chief of Staff or designee. We have determined that restrictions under this proposed rule would be necessary in situations where a patient's behavior has or could harm another person or interfere with the delivery of medical care to another patient at the facility. Accordingly, in almost every case VA would need to implement the restrictions immediately to prevent the harm and meet its obligation to provide safe medical care.

The proposed procedure would emphasize addressing the disruptive patient's needs in order to advance VA's focus on patient care. We propose to require that authorized officials making determinations under this section narrowly tailor restrictions to avoid interfering with the disruptive patient's care. Ultimately, we expect that actions under this proposed rule would increase the likelihood that the disruptive patient will engage, or re-engage (if it has been necessary to terminate an episode of care), in health care in a safe and efficacious manner, without being disruptive. Indeed, through our DBCs and similar committees, we are already seeing anecdotal evidence of such results.

The standard for making determinations under the proposed rule is in paragraph (b)(1). Under this standard, the Chief of Staff or designee would evaluate whether the patient's behavior has or could jeopardize the health or safety of patients or other individuals who have access to VA medical facilities. The Chief of Staff or designee would also evaluate whether the patient's behavior has or could interfere with the delivery of medical care to another patient at a VA medical facility. In making such determinations, the Chief of Staff or designee would consider, among other things, the patient's individual fears; VA's obligation to provide the patient with high-quality medical care; and all of the pertinent facts, such as any prior counseling of the patient regarding his or her inappropriate behavior. See proposed paragraph (c).

Proposed paragraph (d) would also suggest a range of possible restrictions that could be imposed. We believe that these suggestions would assist Chiefs of Staff or their designees to narrowly tailor restrictions imposed under the proposed rule. We do not intend to limit the remedial options available to the officials making determinations under this section. Rather, proposed paragraph (d) would illustrate the types of restrictions that might be appropriate in a given situation and would authorize any other restriction that the Chief of Staff or designee deems appropriate short of arrest and removal. Restrictions could thus be tailored to consider the needs of a particular situation or patient.

Proposed paragraph (e) would prescribe the procedures for obtaining an administrative review of restrictions imposed by order of the Chief of Staff or designee under the proposed rule. VA provides medical care through 21 networks of medical facilities known as Veterans Integrated Service Networks. We propose to allow one appeal of an order restricting medical care under this section to the Network Director of jurisdiction. The patient would initiate the Network Director's review by submitting a request to the Chief of Staff within 30 days of the effective date of the Chief of Staff's or designee's order. However, in light of VA's obligation to provide safe medical care for all patients, the order would be enforced while under review by the Network Director. The Chief of Staff would provide the patient written notice of the Network Director's final decision.

At the end of the proposed rule, we would include a note stating as follows: "Although VA may restrict the time, place, and/or manner of care under this section, VA will continue to offer the full range of needed medical care to which a patient is eligible under title 38 of the United States Code or Code of Federal Regulations." We do not intend to prevent patients from accessing non-emergent VA medical care and will work with veterans to try to find other VA medical facilities that can provide the care. However, we recognize that in a few instances VA restrictions on the time, place, or manner of care may make it very difficult for a veteran to access VA care if the veteran is unwilling to accept the restrictions placed upon his or her behavior by the local facility. We also note that it has been our experience that through creative case management on the part of VA staff and other involved parties, it is almost always possible to find transportation, even for veterans who must travel great distances for routine appointments.

We do not consider patients disruptive if they merely do not comply with a doctor's orders, decline recommended medical treatment, or leave a facility against medical advice. Such noncompliance can be, and is, addressed most effectively through clinical means. We propose to add a second sentence to the note explicitly stating that noncompliance with VA medical treatment recommendations is not disruptive under this section.

Unfunded Mandates

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

Paperwork Reduction Act of 1995

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

Executive Order 12866

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

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

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would not cause a significant economic impact on health care providers, suppliers, or entities since only a small portion of the business of such entities concerns VA beneficiaries. Therefore, pursuant to 5 U.S.C. 605(b), this proposed amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, 64.015, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; and 64.022, Veterans Home Based Primary Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, approved this document on March 22, 2010, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Day care, Dental health, Drug abuse, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes.

Dated: May 26, 2010.

Robert C. McFetridge,

Director of Regulation Policy and Management, Office of the General Counsel.

For the reasons set forth in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 17 as follows:

PART 17—MEDICAL

1. The authority citation for part 17 is revised to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

2. Section 17.106 is revised to read as follows:

§ 17.106 VA response to disruptive behavior of patients.

(a) *Definition.* For the purposes of this section:

VA medical facility means VA medical centers, outpatient clinics, and domiciliaries.

(b) *Response to disruptive patients.* The time, place, and/or manner of the provision of a patient's medical care may be restricted by written order of the Chief of Staff of the VA Medical Center of jurisdiction or his or her designee if:

(1) The Chief of Staff or designee determines pursuant to paragraph (c) of this section that the patient's behavior at a VA medical facility has or could jeopardize the health or safety of other patients, VA staff, or guests at the facility, or otherwise interfere with the delivery of safe medical care to another patient at the facility;

(2) The order is narrowly tailored to address the patient's disruptive behavior and avoid undue interference with the patient's care;

(3) The order is signed by the Chief of Staff or designee, and a copy is entered into the patient's permanent medical record;

(4) The patient receives a copy of the order and written notice of the procedure for appealing the order to the network director of jurisdiction as soon as possible after issuance; and

(5) The order contains an effective date and any appropriate limits on the duration of or conditions for continuing the restrictions. The Chief of Staff or designee may order restrictions for a definite period or until the conditions for removing conditions specified in the order are satisfied. Unless otherwise stated, the restrictions imposed by an order will take effect upon issuance by the Chief of Staff or designee. Any order issued by the Chief of Staff or designee shall include a summary of the pertinent facts and the bases for the Chief of Staff's or designee's

determination regarding the need for restrictions.

(c) *Evaluation of disruptive behavior.* In making determinations under paragraph (b) of this section, the Chief of Staff or designee must consider all pertinent facts, including any prior counseling of the patient regarding his or her disruptive behavior or any pattern of such behavior, and whether the disruptive behavior is a result of the patient's individual fears, preferences, or perceived needs. A patient's disruptive behavior must be assessed in connection with VA's duty to provide good quality care, including care designed to reduce or otherwise clinically address the patient's behavior.

(d) *Restrictions.* The restrictions on care imposed under this section may include but are not limited to:

(1) Specifying the hours in which nonemergent outpatient care will be provided;

(2) Arranging for medical and any other services to be provided in a particular patient care area (*e.g.,* private exam room near an exit);

(3) Arranging for medical and any other services to be provided at a specific site of care;

(4) Specifying the health care provider, and related personnel, who will be involved with the patient's care;

(5) Requiring police escort; or

(6) Authorizing VA providers to terminate an encounter immediately if certain behaviors occur.

(e) *Review of restrictions.* The patient may request the Network Director's review of any order issued under this section within 30 days of the effective date of the order by submitting a written request to the Chief of Staff. The Chief of Staff shall forward the order and the patient's request to the Network Director for a final decision. The Network Director shall issue a final decision on this matter within 30 days. VA will enforce the order while it is under review by the network director. The Chief of Staff will provide the patient who made the request written notice of the Network Director's final decision.

Note: Although VA may restrict the time, place, and/or manner of care under this section, VA will continue to offer the full range of needed medical care to which a patient is eligible under title 38 of the United States Code or Code of Federal Regulations. Patients have the right to accept or refuse treatments or procedures, and such refusal by a patient is not a basis for restricting the provision of care under this section.

(Authority: 38 U.S.C. 501, 901, 1721)

[FR Doc. 2010–13048 Filed 5–28–10; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 501

Revisions to the Requirements for Authority To Manufacture and Distribute Postage Evidencing Systems

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: In this proposed rule, the Postal Service proposes to amend regulations on Authorization to Manufacture and Distribute Postage Evidencing Systems. This proposed revision clarifies the requirement for examination by an independent audit firm of a Postage Evidencing System Provider's Computerized Meter Resetting System (CMRS) or PC Postage® system internal controls.

DATES: Submit comments on or before July 1, 2010.

ADDRESSES: Mail or deliver written comments to the Manager, Postage Technology Management, U.S. Postal Service, 475 L'Enfant Plaza SW., Suite 4200 NB, Washington, DC 20260–4200. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the Postage Technology Management office.

FOR FURTHER INFORMATION CONTACT: Marlo Kay Ivey, Marketing Specialist, Postage Technology Management, U.S. Postal Service, at 202–268–7613.

SUPPLEMENTARY INFORMATION: Postage Evidencing Systems are devices or systems of components that a customer uses to print evidence that the prepaid postage required for mailing has been paid. They include, but are not limited to, postage meters and PC Postage systems. The Postal Service regulates these systems and their use in order to protect postal revenue. Only Postal Service–authorized product service providers may design, produce, and distribute Postage Evidencing Systems. This proposed revision clarifies the internal controls required in 39 CFR 501.15(i), Computerized Meter Resetting system, and 501.16(f), PC Postage Payment Methodology. This requirement was added as part of a final rule published in the **Federal Register** on November 9, 2006, at 71 FR 65732.

Although exempt from the notice and comment requirements of the Administrative Procedure Act [39 U.S.C. 410(a)], the Postal Service invites public comment on the following proposed revisions to the Code of Federal Regulations (*see* 39 CFR part 501).

List of Subjects in 39 CFR Part 501

Postal Service.

Accordingly, 39 CFR part 501 is proposed to be amended as follows:

PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE EVIDENCING SYSTEMS

1. The authority citation for 39 CFR part 501 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605, Inspector General Act of 1978, as amended (Pub. L. 95–452, as amended); 5 U.S.C. App. 3.

2. Section 501.15 is amended by revising paragraph (i) to read as follows:

§ 501.15 Computerized Meter Resetting System.

* * * * *

(i) *Security and Revenue Protection.* To receive Postal Service approval to continue to operate systems in the CMRS environment, the RC must submit to a periodic examination of its CMRS system and any other applications and technology infrastructure that may have a material impact on Postal Service revenues, as determined by the Postal Service. The examination shall be performed by a qualified, independent audit firm and conducted in accordance with the Statement on Auditing Standards (SAS) No. 70, Service Organizations, developed by the American Institute of Certified Public Accountants (AICPA), as amended or superseded. The examination shall include testing of the operating effectiveness of relevant RC internal controls (Type II SAS 70 Report). If the service organization uses another service organization (sub-service provider), Postal Service management should consider the nature and materiality of the transactions processed by the sub-service organization and the contribution of the sub-service organization's processes and controls in the achievement of the Postal Service's information processing objectives. The Postal Service should have access to the sub-service organization's SAS 70 report. The control objectives to be covered by the SAS 70 report are subject to Postal Service review and approval and are to be provided to the Postal Service 30 days prior to the initiation of each examination period. As a result of the examination, the auditor shall provide the RC and the Postal Service with an opinion on the design and operating effectiveness of the RC's internal controls related to the CMRS system and any other applications and technology infrastructure considered material to the services provided to the Postal Service by the RC. Such

examinations are to be conducted on no less than an annual basis, and are to be as of and for the 12 months ended June 30 of each year (except for the period ending June 30, 2010, for which the period of coverage will be no less than 6 months, and except for new contracts for which the examination period will be no less than the period from the contract date to the following June 30, unless otherwise agreed to by the Postal Service). The examination reports are to be provided to the Postal Service by August 15 of each year. To the extent that internal control weaknesses are identified in a Type II SAS 70 report, the Postal Service may require the remediation of such weaknesses, review working papers, and engage in discussions about the work performed with the auditor. The Postal Service requires that all remediation efforts (if applicable) are completed and reported by the RC prior to the Postal Service's fiscal year end (September 30). The RC will be responsible for all costs to conduct these examinations.

* * * * *

3. Section 501.16 is amended by revising paragraph (f) to read as follows:

§ 501.16 PC Postage Payment Methodology.

* * * * *

(f) *Security and Revenue Protection.* To receive Postal Service approval to continue to operate PC Postage systems, the provider must submit to a periodic examination of its PC Postage system and any other applications and technology infrastructure that may have a material impact on Postal Service revenues, as determined by the Postal Service. The examination shall be performed by a qualified, independent audit firm and conducted in accordance with the Statement on Auditing Standards (SAS) No. 70, Service Organizations, developed by the American Institute of Certified Public Accountants (AICPA), as amended or superseded. The examination shall include testing of the operating effectiveness of relevant provider internal controls (Type II SAS 70 Report). If the service organization uses another service organization (sub-service provider), Postal Service management should consider the nature and materiality of the transactions processed by the sub-service organization and the contribution of the sub-service organization's processes and controls in the achievement of the Postal Service's information processing objectives. The Postal Service should have access to the sub-service organization's SAS 70 report. The control objectives to be covered by the SAS 70 report are subject to Postal Service review and approval and are to be provided to the Postal Service 30 days prior to the initiation of each examination period. As a result of the examination, the auditor shall provide the provider, and the Postal Service, with an opinion on the design and operating effectiveness of the internal controls related to the PC Postage system and any other applications and technology infrastructure considered material to the services provided to the Postal Service by the provider. Such examinations are to be conducted on no less than an annual basis, and are to be as of and for the 12 months ended June 30 of each year (except for the period ending June 30, 2010, for which the period of coverage will be no less than 6 months, and except for new contracts for which the examination period will be no less than the period from the contract date to the following June 30, unless otherwise agreed to by the Postal Service). The examination reports are to be provided to the Postal Service by August 15 of each year. To the extent that internal control weaknesses are identified in a Type II SAS 70 report, the Postal Service may require the remediation of such weaknesses, review working papers, and engage in discussions about the work performed with the auditor. The provider will be responsible for all costs to conduct these examinations.

* * * * *

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 2010–12883 Filed 5–28–10; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2010–0380; A–1–FRL–9156–9]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Determination of Attainment of the 1997 Ozone Standard for the Greater Connecticut Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to determine that the Greater Connecticut, moderate 1997 8-hour ozone nonattainment area has attained the 1997 8-hour National Ambient Air Quality Standard (NAAQS) for ozone. This determination is based upon complete, quality-assured, certified ambient air monitoring data that show the area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2007–2009 monitoring period. If this proposed determination is made final, under the provisions of EPA's ozone implementation rule, the requirements for this area to submit an attainment demonstration, a reasonable further progress plan, contingency measures, and other planning State Implementation Plans related to attainment of the 1997 8-hour ozone NAAQS shall be suspended for so long as the area continues to attain the 1997 ozone NAAQS. In addition, EPA is proposing to determine that this area has attained the 1997 ozone NAAQS as of June 15, 2010, its applicable attainment date, provided that the area continues to attain the standard through June 15, 2010.

DATES: Written comments must be received on or before July 1, 2010.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2010–0380 by one of the following methods:

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

2. *E-mail: arnold.anne@epa.gov*

3. *Fax:* (617) 918–0047.

4. *Mail:* "Docket Identification Number EPA–R01–OAR–2010–0380," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912.

5. *Hand Delivery or Courier:* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2010–0380. 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 through *http://www.regulations.gov*, or e-mail,

information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA 02109–3912, telephone number (617) 918–1664, fax number (617) 918–0664, e-mail *Burkhart.Richard@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. What actions is EPA taking?
II. What is the effect of these actions?
III. What is the background for these actions?
IV. What is EPA's analysis of the relevant air quality data?
V. Proposed Actions
VI. Statutory and Executive Order Reviews

I. What actions is EPA taking?

EPA is proposing to determine that the Greater Connecticut, moderate 8-hour ozone nonattainment area has attained the 1997 8-hour NAAQS for ozone. This determination is based upon complete, quality-assured and certified ambient air monitoring data that show the area has monitored attainment of the 1997 ozone NAAQS for the 2007–2009 monitoring period. In addition, under section 181(b)(2)(A) of the Clean Air Act (CAA), EPA is proposing to determine that this area has attained the 1997 ozone NAAQS by its applicable attainment date (June 15, 2010), provided that the area continues to attain the standard as of June 15, 2010. EPA will not finalize this determination unless the area continues to attain the standard through June 15, 2010.

II. What is the effect of these actions?

If EPA's determination that the area is attaining the standard is made final, under the provisions of EPA's ozone implementation rule (*see* 40 CFR 51.918), the requirements for the Greater Connecticut moderate ozone nonattainment area to submit an attainment demonstration, a reasonable further progress plan, section 172(c)(9) contingency measures, and any other planning State Implementation Plans (SIPs) related to attainment of the 1997 8-hour ozone NAAQS would be suspended for so long as the area continues to attain the 1997 8-hour ozone NAAQS. This proposed action, if finalized, would not constitute a redesignation to attainment under the Clean Air Act (CAA) section 107(d)(3), because we would not yet have an approved maintenance plan for the area as required under section 175A of the CAA, nor a determination that the area has met the other requirements for redesignation. The classification and designation status of the area would remain moderate nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the area meets the CAA requirements for redesignation to attainment.

If this determination of attainment is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the area has violated the 1997 8-hour ozone standard, the basis for the suspension of these requirements would no longer exist, and the area would thereafter have to address the pertinent CAA requirements. It should be noted that Connecticut submitted an attainment demonstration, reasonable further progress plan and contingency measures for this area on February 1, 2008. EPA has not taken action on these submittals for the Greater Connecticut area.

In addition, under section 181(b)(2)(A) of the CAA and the provisions of EPA's ozone implementation rule (*see* 40 CFR 51.902(a)), EPA is proposing to determine that this area has attained the 1997 ozone NAAQS by its applicable attainment date of June 15, 2010, provided that the area continues to attain the standard through June 15, 2010. The effect of a final determination of attainment by the area's attainment date would be to discharge EPA's obligation under section 181(b)(2)(A), and to establish that, in accordance with that section, the area would not be reclassified for failure to attain by its applicable attainment date.

III. What is the background for this action?

On April 30, 2004 (69 FR 23857), EPA designated as nonattainment any area that was violating the 1997 8-hour ozone NAAQS based on the three most recent years (2001–2003) of air quality data. The Greater Connecticut area was designated as a moderate ozone nonattainment area. The Greater Connecticut area consists of the following Connecticut counties: Hartford, Litchfield, New London, Tolland and Windham. Recent air quality data, however, indicate that the Greater Connecticut area is now attaining the 1997 8-hour ozone standard.

IV. What is EPA's analysis of the relevant air quality data?

The EPA has reviewed the ambient air monitoring data for ozone, consistent with the requirements contained in 40 CFR Part 50 and recorded in the Air Quality Data System (AQS) database, for Greater Connecticut, from 2007 through 2009. On the basis of that review, EPA proposes to conclude that the area attained the 1997 8-hour ozone standard at the end of the 2009 ozone season, based on three years of complete, quality-assured and state-certified 2007–2009 ozone data.

Under EPA regulations at 40 CFR Part 50, the 1997 8-hour ozone standard is attained at a site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is

less than or equal to 0.08 parts per million (ppm) (*i.e.,* 0.084 ppm, based on the rounding convention in 40 CFR part 50, appendix I). This 3-year average is referred to as the design value. When the design value is less than or equal to 0.084 ppm at each monitoring site within the area, then the area is meeting the NAAQS. Also, the data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90%, and no single year has less than 75% data completeness as determined in Appendix I of 40 CFR part 50.

Table 1 shows the fourth-highest daily maximum 8-hour average ozone concentrations for the Greater Connecticut nonattainment area monitors for the years 2007–2009, and the ozone design values for these same monitors based on 2007–2009.

TABLE 1—2007–2009 FOURTH-HIGH 8-HOUR AVERAGE OZONE CONCENTRATIONS AND 2007–2009 DESIGN VALUES (PARTS PER MILLION) IN THE GREATER CONNECTICUT AREA

Site ID	Site location	4th High 2007	4th High 2008	4th High 2009	Design value (07–09)
090050006	Cornwall	89	77	70	78
090031003	East Hartford	97	80	66	81
090110008	Groton	89	.....	.....	.....
090110124	Groton	[1] 92	80	73	81
090131001	Stafford	87	84	74	81

EPA's review of these data indicates that theGreater Connecticut ozone nonattainment area has met the 1997 8-hour ozone NAAQS, based on 2007–2009 data. EPA believes these data establish the likelihood that the Greater CT area will also be attaining the standard as of its applicable attainment date of June 15, 2010. Thus, in accordance with CAA section 181(b)(2), EPA is also proposing to determine that the Greater CT area has attained the standard by its applicable attainment date, provided that the area continues to be in attainment of the standard as of that date. EPA will not finalize this proposed determination of attainment by the area's attainment date unless the area is in attainment as of June 15, 2010.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters pertaining to this rulemaking action. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register.**

V. Proposed Actions

EPA is proposing to determine that the Greater Connecticut 1997 8-hour ozone moderate nonattainment area has attained the 1997 8-hour ozone standard, based on complete, quality-assured data from 2007 through 2009. As provided in 40 CFR 51.918, if EPA finalizes this determination, it would suspend the requirements for Connecticut to submit planning SIPs related to attainment of the 1997 8-hour ozone NAAQS for this area, for so long as the area continues to attain the standard.[2] In addition, under section 181(b)(2)(A) of the Clean Air Act and the provisions of EPA's ozone implementation rule (see 40 CFR Section 51.902(a)), EPA is proposing to determine that this area has attained the 1997 ozone NAAQS by its applicable attainment date of June 15, 2010, provided that the area continues in attainment as of that date. EPA will not finalize this determination unless the area continues to attain through June 15, 2010.

VI. Statutory and Executive Order Reviews

These actions propose to make determinations of attainment based on air quality, and would, if finalized; result in the suspension of certain Federal requirements, and would not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are 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);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to the 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 be inconsistent with the Clean Air Act; and
- Do 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 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.

[1] Groton site relocated in 2007. Data collected at both sites for 2007. The site was relocated because site 090110008 was in danger of not meeting EPA siting criteria due to nearby trees, which could not be cut. Site 090110124 was chosen, in part since it is a CT DEP owned site and can remain at this location for a long time. The new site is less than three miles from the old site and measures comparable air quality. Both sites meet data capture requirements for 2007. EPA approved this relocation in 2007.

[2] Connecticut submitted an attainment demonstration, reasonable further progress plan and contingency measures for this area on February 1, 2008. EPA has not taken action on these submittals.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 20, 2010.

Ira W. Leighton,

Acting, Regional Administrator, EPA New England.

[FR Doc. 2010–13083 Filed 5–28–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R4-ES-2009-0020]
[MO 92210-0-0008-B2]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List *Castanea pumila* var. *ozarkensis*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90–day finding on a petition to list *Castanea pumila* var. *ozarkensis* (Ozark chinquapin), a tree, as endangered or threatened under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition presents substantial scientific or commercial information indicating that listing this species may be warranted. Therefore, with the publication of this notice, we are initiating a status review of the species to determine if listing *Castanea pumila* var. *ozarkensis* is warranted. To ensure that the review is comprehensive, we are requesting scientific and commercial data and other information regarding this species. Based on the status review, we will issue a 12 month finding on the petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: To allow us adequate time to conduct this review, we request that we receive information on or before August 2, 2010. Please note that if you are using the *Federal eRulemaking Portal* (see "**ADDRESSES**" section, below), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Daylight Savings Time on this date.

After August 2, 2010, you must submit information directly to the Field Office (see **FOR FURTHER INFORMATION CONTACT** section below). Please note that we might not be able to address or incorporate information that we receive after the above requested date.

ADDRESSES: You may submit information by one of the following methods:

• Federal eRulemaking Portal: *http://www.regulations.gov*. In the box that reads "Enter Keyword or ID," enter the Docket number for this finding, which is **FWS-R4-ES-2009-0020**. Check the box that reads "Open for Comment/Submission," and click the Search button. You should then see an icon that reads "Submit a Comment." Please ensure that you have found the correct rulemaking before submitting your comment.

• *U.S. mail or hand-delivery*: Public Comments Processing, Attn**: FWS-R4-ES-2009-0020**; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information we receive on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the **Request for Information** section below for more details).

FOR FURTHER INFORMATION CONTACT: Mark Sattelberg, Field Supervisor, Arkansas Ecological Services Field Office, 110 South Amity Road, Suite 300, Conway, AR 72032; by telephone (501-513-4470); or by facsimile (501-513-4480). If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Request for Information

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on *Castanea pumila* var. *ozarkensis* from governmental agencies, Native American Tribes, the scientific community, industry, and any other interested parties. We seek information on:

(1) The species' biology, range, and population trends, including:

(a) Habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

(3) The potential effects of climate change on this species and its habitat.

If, after the status review, we determine that listing *Castanea pumila* var. *ozarkensis* is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act), in accordance with section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, within the geographical range currently occupied by *Castanea pumila* var. *ozarkensis,* we request data and information on:

(1) What may constitute "physical or biological features essential to the conservation of the species,"

(2) Where these features are currently found, and

(3) Whether any of these features may require special management considerations or protection.

In addition, we request data and information on "specific areas outside the geographical area occupied by the species" that are "essential to the conservation of the species." Please provide specific comments and information as to what, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of section 4 of the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the

Act directs that determinations as to whether any species is an endangered or threatened species must be made "solely on the basis of the best scientific and commercial data available."

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. If you submit information via *http://www.regulations.gov*, your entire submission—including any personal identifying information—will be posted on the website. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov*.

Information and supporting documentation that we received and used in preparing this finding, will be available for you to review at *http://www.regulations.gov*, or you may make an appointment during normal business hours at the U.S. Fish and Wildlife Service, Arkansas Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act (16 U.S.C. 1533(b)(3)(A)) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90–day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly review the status of the species, which is subsequently summarized in our 12–month finding.

Petition History

On January 6, 2004, we received a petition, dated December 28, 2003, from Mr. Joe Glenn of Hodgen, Oklahoma, requesting that the *Castanea pumila* var. *ozarkensis* (Ozark chinquapin) be listed under the Act as a candidate species. The petition clearly identified itself as such and included the requisite identification information for the petitioner(s), as required by 50 CFR 424.14(a). The petition contained supporting information regarding the species' ecology, threats to the species, and survey and occurrence data for a portion of the Ouachita Highlands in southeastern Oklahoma. We acknowledged receipt of the petition in a February 2, 2004, letter to Mr. Glenn. In that letter, we advised the petitioner that, due to a significant number of court orders and settlement agreements in Fiscal Year 2004, we would not be able to address the petitioned request at that time.

Previous Federal Action

On July 1, 1975 (40 FR 27924), *Castanea pumila* var. *ozarkensis* was included as one of the 3000 plant species under status review. It was proposed or reviewed by the Service for federal listing as an endangered species under the Act in 1976 (41 FR 17 24524). We, however, did not finalize that proposed rule (U.S. Fish and Wildlife Service 1988). *Castanea pumila* var. *ozarkensis* became a category 2 candidate on December 15, 1980 (45 FR 82480 82569). It was again advertised as a category 2 candidate on September 27, 1985 (50 FR 53640 53670). The status changed on February 21, 1990 (55 FR 6184 6229) to a category 1 candidate species . On September 30, 1993 (58 FR 51144 51190) the status changed back to a category 2 candidate species for listing.

Species Information

Castanea pumila var. *ozarkensis* was first identified as a separate species (*Castanea ozarkensis*) by Ashe (1923, p. 60). Ashe described the range of the species as "common north of the Arkansas River and westward from Center Ridge, Arkansas, northward to southwestern Missouri and westward to the Valley of the White River" (Tucker 1983, p. 2). Ashe (1923, p. 361) also described a second species, *Castanea arkansana*, in Arkansas. Ashe (1924, p. 45) reduced *Castanea arkansana* to varietal status as *Castanea ozarkensis* var. *arkansana*. Little (1953, p. 2, in Tucker 1983) reduced *Castanea arkansana* to synonymy with *Castanea ozarkensis*. Tucker (1975, p. 2, in Tucker 1983) reduced *Castanea ozarkensis* to a variety of the more common *Castanea pumila* (*Castanea pumila* var. *ozarkensis* (Ashe) Tucker) and concurred with Little's (1953) treatment of *Castanea arkansana*. Johnson (1988, p. 43) published a revision of *Castanea* sect. *Balanocastanion* concurring with Tucker's reduction of *Castanea ozarkensis* to a variety of *Castanea pumila*. Tucker's reduction is further supported in Smith's (1994, p. 54) Keys to the Flora of Arkansas.

Castanea pumila var. *ozarkensis* is a tree in the beech family (Fagaceae). *Castanea pumila* var. *ozarkensis* has leaves 10 to 25 centimeters (4 to 10 inches (in)) long, broadly lanceolate to elliptical, with coarse teeth that are 2.5 to 9 millimeters (mm) (0.1 to 0.35 in) long with whitish or yellowish-cream stellate (star-shaped) hairs on the lower surfaces. The bark is light brown to reddish brown or grayish, with broad flat ridges that break into loose plate-like scales. The fruits are subglobose to ovoid nuts up to approximately 20 mm (0.8 in) long enclosed in a spiny burr with burrs being solitary or in groups of two or three. The subspecies is distinguished from *Castanea pumila* var. *pumila* (Allegheny chinquapin) by the larger leaf size, larger teeth, and larger fruit, which also have hairs (Steyermark 1963, p. 531; Smith 1994, p. 54).

Castanea pumila var. *ozarkensis* was historically a medium-sized tree species that once grew to 20 meters (m) (65 feet (ft)), although usually much shorter, but now rarely reaches heights of more than 9 m (30 ft). Trunks develop from stump sprouts as well as from seeds, but in recent years, new growth is generally from sprouts. Trees reaching the age to produce fruit (4 to 5 years; Paillet 1993, p. 262) are increasingly rare due to the fungus parasite (*Cryphonectria parasitica*) that is responsible for the chestnut blight disease, which has adversely affected many *Castanea* spp. populations in the United States (Tucker 1983, pp. 8-9; Steyermark 1963, p. 531). Paillet (1991, p. 10; 1993, pp. 261-262) noted an area on the Ozark National Forest that was cut 4-5 years previously that was full of broad chinquapin crowns and the ground littered with burs from the summer's nut crop. Based on Paillet's observation nearly 20 years ago, it is plausible to assume that *Castanea pumila* var. *ozarkensis* may produce fruit prior to succumbing to the blight at some localities. However, Paillet (1993, p. 262) reported that these sites were increasingly rare in the early 1990's.

Castanea pumila var. *ozarkensis* has been described as historically common in thin woods, edges of woods, and mid-successional woods (Tucker 1983, pp. 8-9). This tree historically occupied

canopy and subcanopy positions on a variety of habitats, including dry upland deciduous or mixed hardwood-pine communities on acid soils of ridge-tops, upper slopes adjacent to ravines and gorges, and the tops of sandstone bluffs (C. McDonald 1987, personal communication (pers. comm.)). Associated trees in these habitats include *Quercus alba* (white oak), *Quercus stellata* (post oak), *Quercus rubra* (northern red oak), *Nyssa sylvatica* (black gum), *Pinus echinata* (short-leaf pine), *Morus rubra* (mulberry), *Carya spp.* (hickories), *Ulmus americana* (American elm), and *Ostrya virginiana* (ironwood) (Steyermark 1963, p. 531; G. Tucker 1976, pers. comm.). Soil conditions typically are acid and sandstone-derived, and moisture conditions vary from mesic to dry; shade is variable (G. Tucker 1976, pers. comm.; C. McDonald 1987, pers. comm.).

Castanea pumila var. *ozarkensis* is generally fire tolerant, but sprouts may be damaged by fire (Kral 1983, p. 287). Due to blight, dead sprouts and dead stump wood may act as a fuel for fire and affect the remaining live sprouts.

Distribution and Status

Castanea pumila var. *ozarkensis* is located throughout the Interior Highlands in Arkansas (34 counties), Missouri (9 counties), and Oklahoma (8 counties)(Kratesz 1994). *Castanea pumila* var. *ozarkensis* currently remains widespread within the Interior Highlands of Arkansas and is less common and widespread within the uplands of southwestern Missouri and eastern Oklahoma. Localities with seed-producing trees are greatly diminished from pre-blight era. However, asexually reproducing populations still occur throughout the tree's historic distribution. Herbarium specimens are all that remains to support the existence of *Castanea pumila* var. *ozarkensis* in Alabama (four localities in the Appalachian Mountains). Data to support the abundance and distribution of *Castanea pumila* var. *ozarkensis* in the Appalachian Mountains is lacking, and researchers have been unable to find extant populations in this region. The Interior Highlands contain the only known extant populations of *Castanea pumila* var. *ozarkensis* at this time (Johnson 1988, pp. 43-45).

At present, there are greater than 300 element occurrences in the Interior Highlands. Individual site records commonly report multiple *Castanea pumila* var. *ozarkensis* sprout clumps. These vary from tens to hundreds of individual sprout clumps at an element occurrence record site (Kratesz 1994). At present, *Castanea pumila* var. *ozarkensis* occurrence and status is tracked by all of the State heritage programs and the U.S. Department Agriculture's Forest Service within the tree's range.

Evaluation of Information for this Finding

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In making this 90–day finding, we evaluated whether information regarding threats to the *Castanea pumila* var. *ozarkensis,* as presented in the petition and other information available in our files, is substantial, thereby indicating that the petitioned action may be warranted. Our evaluation of this information is presented below.

A. The Present or Threatened Destruction, Modification, or Curtailment of Habitat or Range

Information Provided in the Petition

The petition cites several factors regarding the destruction and modification of *Castanea pumila* var. *ozarkensis* habitat, including:

(1) The range of *Castanea pumila* var. *ozarkensis* has been reduced over past times (geologic time scale) because it once could have occupied the entire Lower Mississippi Valley. Based on the petitioner's personal observations, several million acres of suitable habitat in the Interior Highlands on both public (particularly on national forest lands in the region) and private lands have been lost since the 1960s, mostly due to anthropogenic (human) disturbance.

(2) Late successional habitats have been reduced through "pine plantation style" forest management, which has reduced habitat quality through prescribed burning (including the fact that vigorous *Castanea pumila* var. *ozarkensis* growth did not occur at prescribed burn sites studied by the petitioner in Oklahoma).

(3) *Castanea pumila* var. *ozarkensis* is a late successional obligate as it relates to seedling establishment.

Evaluation of Information Provided in the Petition and Available in Service Files

With regard to the amount of habitat modification and alteration that has occurred within the range of *Castanea pumila* var. *ozarkensis*, we generally find that the information presented by the petition is speculative and not substantial. Further, no supporting information was presented to verify the petition's claim that *Castanea pumila* var. *ozarkensis* could have once occupied the entire Lower Mississippi Valley. Information provided in the petition and available in our files includes references to records from Louisiana, Mississippi, and Alabama. Johnson (1988, pp. 41-45) recognized *Castanea pumila* var. *ozarkensis* records from the Interior Highlands and Appalachian Mountains. While there is support for an Appalachian-Ozarkian floristic relationship, floristic relationships to the lower Mississippi Valley and Gulf Coastal Plain can only be considered speculative at this time (Johnson 1988, p. 47).

The habitat loss claims in the petition are not supported in available, peer-reviewed literature and are contrary to other existing information in our files. The Ozark–Ouachita Highlands Assessment (OOHA) 1999 Terrestrial Vegetation and Wildlife Report, prepared by a collaborative team of natural resource specialists and research scientists, examined historic and existing forest conditions throughout the Interior Highlands of Arkansas, Missouri, and Oklahoma (U.S. Forest Service 1999, section 5). The area of analysis overlaps much of the range of *Castanea pumila* var. *ozarkensis*. OOHA descriptions of vegetation cover or silvicultural practices do not indicate significant reductions in suitable habitat for *Castanea pumila* var. *ozarkensis*. Oak–hickory and oak–pine forest types continue to be common forest types in the Interior Highlands. The upland oak–hickory forest type provided the dominant cover within the region at the time of the OOHA. It covered 15 million acres (6.1 million hectares) or about 36 percent of the area. The oak–pine forest type provided the second most extensive cover. It covered 4.4 million acres (1.8 million hectares) or 11 percent of the area.

Ashe (1923) described the range of the species as "common north of the Arkansas River and westward from

Center Ridge, Arkansas, northward to southwestern Missouri and westward to the Valley of the White River." Steyermark (1963, p. 531) states that Louisiana and Mississippi are sometimes included as part of the *Castanea pumila* var. *ozarkensis* range, but specimens examined from those States have been proven not to be *Castanea pumila* var. *ozarkensis*. This is contrary to the statements made by the petitioner which states that the species occurs in Louisiana and Mississippi.

With regard to the reduction of late successional habitats, the OOHA recognized *Castanea pumila* var. *ozarkensis* as a species of viability concern, the habitat description being "woodland, fire maintained" (U.S. Forest Service 1999, p. 137). Loss of natural fire regimes is recognized as a threat to the health and sustainability of oak–hickory and oak–pine ecosystems in which *Castanea pumila* var. *ozarkensis* occurs (Spetich 2004, pp. 49-50 and 65-66). However, given the understanding of fire as it relates to ecosystem health and sustainability within most of the habitats where *Castanea pumila* var. *ozarkensis* is known to occur, we cannot conclude that prescribed burning is negatively influencing the species, even with the knowledge that individual sprout clumps may be top-killed during prescribed burns. Prescribed fire reduces fuel availability in the forest, which reduces the threat of catastrophic wildfires that are likely a greater threat to *Castanea pumila* var. *ozarkensis* than prescribed fire.

The petition claims, based on the petitioner's personal observations, that the species is dependent on mesic conditions for seedling establishment and growth. The petition also states that *Castanea pumila* var. *ozarkensis* occurs in areas with abrupt changes in topography, including talus flow margins, drainage margins, steep upper slopes, rocky outcrops, and ridge tops; he also quoted a historical reference (Palmer 1923) that stated a similar array of habitat types. These descriptions tend to be more indicative of drier type areas and not of mesic, closed canopy forest. While the species is known to occur on mesic sites, mesic site obligation is not in alignment with widely accepted ecological descriptions and dynamics known to sustain most of the forested ecosystems where this species is currently found. *Castanea pumila* var. *ozarkensis* is common in dry deciduous or mixed hardwood-pine communities. Turner (1937) said of *Castanea pumila* var. *ozarkensis,* "Although it grows better in soils fairly well supplied with moisture, it also grows on rocky, rather dry slopes and hilltops." It is most common on upland slopes and ridges, cliff margins, and talus slopes, where it is found on soils derived from sandstone, limestone, or on chert-rich, clayey soils.

The petition also states that *Castanea pumila* var. *ozarkensis* is a late seral obligate and that excessive shading contributes to branch mortality and crown retardation. These characteristics would not be expected in a species that needs late successional forest conditions for optimal growth. Tucker (1983, p. 15) stated that *Castanea pumila* var. *ozarkensis* formerly was a member of the climax community, but presently is one of the first species to regenerate following a disturbance (e.g., clear-cut, prescribed fire). Paillet (1991, p. 10; 1993, pp. 261-262) noted an area on the Ozark National Forest that was cut 4 to-5 years previously that was full of broad chinquapin crowns and the ground littered with burs from the summer's nut crop. The species requires sunlight to establish seedlings, which, again, is not characteristic of late successional forest conditions that were fire-maintained. Information in our files does not support the petitioner's claim that this species is a late seral obligate. The species is found on a variety of aspects and forest community types on the Ouachita and Ozark National Forests. Information in our files indicates that *Castanea pumila* var. *ozarkensis* prefers forests at an early seral stage.

Summary of Factor A

The information in our files does not support the petition's claim that *Castanea pumila* var. *ozarkensis* has suffered a significant range reduction. While there is support for an Appalachian-Ozarkian floristic relationship, floristic relationships to the lower Mississippi Valley and Gulf Coastal Plain can only be considered speculative at this time (Johnson 1988, p. 47). *Castanea pumila* var. *ozarkensis* is still widespread and abundant throughout the majority of its extant range in the Interior Highlands, particularly on public lands.

The information in our files also does not support the petition's claim that *Castanea pumila* var. *ozarkensis* habitat has been reduced due to prescribed burning. The habitat description for *Castanea pumila* var. *ozarkensis* is described as "woodland, fire maintained" (U.S. Forest Service 1999, p. 137). Loss of natural fire regimes is recognized as a threat to the health and sustainability of oak–hickory and oak–pine ecosystems in which *Castanea pumila* var. *ozarkensis* occurs (Spetich 2004, pp. 49-50 and 65-66).

In addition, information in our files does not support the petition's claim that *Castanea pumila* var. *ozarkensis* habitat and seedling establishment have been reduced due to a reduction in late successional and mesic habitat. Tucker (1983, p. 15) stated that *Castanea pumila* var. *ozarkensis* formerly was a member of the climax community, but presently is one of the first species to regenerate following a disturbance (e.g., clear-cut, prescribed fire). Paillet (1991, p. 10; 1993, pp. 261-262) noted an area on the Ozark National Forest that was cut 4 to 5 years previously that was full of broad chinquapin crowns and the ground littered with burs from the summer's nut crop.

In summary, we find that the information provided in the petition, as well as other information in our files, does not present substantial scientific or commercial information indicating that the petitioned action may be warranted due the present or threatened destruction, modification, or curtailment of habitat or range. However, we will further investigate the potential threat of the present or threatened destruction, modification, or curtailment of habitat or range in our status review for this species.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

No information was presented in the petition, or is available in our files, to indicate that *Castanea pumila* var. *ozarkensis* may warrant listing due to overutilization for commercial, recreational, scientific, or educational purposes.

C. Disease or Predation

Information Provided in the Petition

The petition cites two diseases that threaten *Castanea pumila* var. *ozarkensis* populations:

(1) Ink disease, caused by *Phytopthora cinnamomi,* is known to attack the root systems of all North American *Castanea* species. *Phytopthora cinnamomi* spores spread through groundwater, and thus is most prevalent in low-lying areas. The petition did not identify it as an immediate threat because the current range of *Castanea pumila* var. *ozarkensis* is restricted to upland areas of the Interior Highlands. *Phytopthora cinnamomi* is prevalent in many areas of the Gulf Coastal Plain, and the petitioner believes that this portion of *Castanea pumila* var. *ozarkensis*' historic range is presently unsuitable for

occupation due to the disease infestation.

(2) Chestnut blight, caused by the fungal parasite *Cryphonectria parasitica*, attacks the stems of all North American *Castanea* species but is not directly pathogenic to the root system. Since its introduction, chestnut blight has severely impacted *Castanea pumila* var. *ozarkensis* throughout the Interior Highlands by causing the loss of the majority of mature stems. The species continues to survive because the root systems have remained intact and continue to sprout new stems that are eventually killed by the chestnut blight.

An unpublished, non-peer-reviewed report written by the petitioner described personal observations of *Castanea pumila* var. *ozarkensis* on a portion of the Ouachita National Forest in LeFlore County, Oklahoma. The report described the petitioner's assessments of the life expectancy of blight-affected sprout clumps of various sizes with assumptions of varying degrees of blight resistance. The report concluded that based on observations, environmental factors also had contributed to the decline of the species. The report also describes the petitioner's assessment that factors such as genetic resistance and early maturity of stems have not halted seed production of *Castanea pumila* var. *ozarkensis*, at the evaluated sites. The petitioner indicates that chestnut blight may not present an insurmountable threat to the survival of the species.

Evaluation of Information Provided in the Petition and Available in Service Files

We are not aware of any information to indicate that ink disease poses a significant threat to *Castanea pumila* var. *ozarkensis* at this time. On the other hand, information provided in the petition and in our files does indicate that chestnut blight is widely recognized as the dominant threat to *Castanea pumila* var. *ozarkensis*. Chestnut blight was first noticed in American chestnut trees (*Castanea dentata*) in New York City in 1904. Over a period of about 20 years, the blight spread throughout the range of the American chestnut, reducing this important forest tree to a multiple-stemmed shrub. The fungus enters wounds in the bark and grows under the bark, eventually killing the cambium all the way around the infected area. This results in the death of most of the above-ground portion of the tree. After top-kill, sprouts develop at the base of the tree from dormant buds. These sprouts grow, become infected, and die, and the process is repeated (Anagnostakis 2000, p. 1). The blight affects all North American *Castanea* species, and its effect on *Castanea pumila* var. *ozarkensis* was noted beginning in the 1940s.

Castanea pumila var. *ozarkensis*, like the American chestnut (*Castanea dentata*), has sprout clumps that are capable of persisting in the understory of established woodlands for many years without seed production. *Castanea pumila* var. *ozarkensis* sprouts are released when seed production is suppressed. In one Arkansas locality, the sprouts experience rapid growth and produced seeds within a few years of release (Paillet, 1993, p. 267). However, localities with fruit production were increasingly rare by the 1970's (Tucker, 1983, pp. 9, 16). Tucker (1983, pp. 9, 16) could locate only two sexually reproducing populations out of several hundred localities investigated in the Interior Highlands from 1967 – 1983.

Castanea pumila var. *ozarkensis* also responds favorably to forest thinning. Paillet (2002, pp. 1522, 1523) observed *Castanea pumila* var. *ozarkensis* sprouts dominating the biomass of recent clear-cuts in the Ozark Mountains of northern Arkansas. In the absence of competition, *Castanea pumila* var. *ozarkensis* is often able to survive several years until it becomes infected with the blight. It persists despite the blight, mainly because of its ability to sprout new stems asexually as opposed to sexual reproduction through fruit production. Sexually reproducing stands were increasingly rare by the early 1970's (Tucker, 1983, pp. 9, 16), and it is plausible to conclude that even fewer stands may persist via sexual reproduction two decades later.

Despite the shift in reproductive strategy and a shorter life span for the stems, chestnut blight has not affected the distribution and abundance of *Castanea pumila* var. *ozarkensis* in the Interior Highlands of Arkansas, Missouri, and Oklahoma. Information in our files indicates that *Castanea pumila* var. *ozarkensis* has degenerated to stands consisting mostly of stump sprouts. There have been some isolated localities in which sprouts have survived 5 or more years and produced fruit post-blight infection but indications are that these sites have become increasingly rare since the early 1990's. Tucker (1983, p. 25) states that chestnut blight is responsible for the mortality of extant sexually reproducing populations, reducing populations to primarily asexual reproduction, and that sexually reproductive populations may become extirpated.

We do not have sufficient information to substantiate the current distribution and status of sexually reproductive populations to determine whether blight infestation in *Castanea pumila* var. *ozarkensis* will result in the extirpation of these populations, which would limit all remaining populations to asexual reproduction. There also is no data in the Service's files to predict what effect the loss of sexually reproducing *Castanea pumila* var. *ozarkensis* would have on the survival of the species. Therefore, we rely on data in our files related to other *Castanea* species to use as a surrogate for comparison. Stillwell *et al.* (2003, pp. 3-4) discuss several effects to *Castanea dentata* as a consequence of chestnut blight, including from ecological changes and the diminished importance of sexual reproduction on the amount and distribution of genetic diversity in the species. First, the chestnut blight significantly alters the ecology of *Castanea* species, which may reduce the overall level of genetic diversity. Secondly, chestnut blight may affect the distribution of genetic variance within and among populations. This could occur by genetic drift from the reduced population size or from the vegetative expansion of root collars, both of which would tend to diminish genetic variance within patches.

Knowles and Grant (1981, p. 4, in Stillwell *et al.* 2003) and Mitton and Grant (1980, p. 4, in Stillwell *et al.* 2003) present contrasting information on long-lived trees and the general perception that more heterozygous individuals are less variable and better adapted in fluctuating environments. Many long-lived tree species show an excess of heterozygosity suggesting that selection favoring heterozygotes is relatively subtle and hence is more likely to have an effect over the course of a long lifespan. Subtle differences in the performance of genotypes may be magnified in importance as *Castanea* clones have aged over the last 70 plus years and even relatively small fitness effects may accumulate to have conspicuous effects on the genetics of populations (Stillwell *et al.* 2003, p. 4).

The results of Stillwell *et al.* (2003, pp. 9-11) suggest that the chestnut blight has had significant effects on the genetics of *Castanea dentata* populations. They found that a slight growth advantage for heterozygous genotypes has resulted in a profound excess of heterozygotes within populations. Studies of different age classes (seeds, seedlings, and stands of differing age) show an increase in heterozygosity with increasing age within other tree species. The difference observed by Stillwell *et al.* (2003, pp. 9-11) is that all extant *Castanea dentata*

genotypes are more than 70 years old and many that succumbed to the blight as mature canopy trees are much older. Therefore, as selection favors a population of heterozygous individuals, there are no new recruits to restore the population toward Hardy-Weinberg equilibrium (a constant state of genetic variation in a population from one generation to the next in the absence of disturbance). Prolonged absence of sexual reproduction in *Castanea dentata* has resulted in a change in population genetics.

The high mortality of Castanea dentata stems in conjunction with near total elimination of sexual reproduction could have resulted in the loss of some (mostly rare) alleles (Loveless and Hamrick 1984; Leberg 1992 in Stillwell *et al*). It is not clear, however, whether this slightly lower genetic diversity is a result of the blight epidemic...Huang *et al* 1998 suggested that the low genetic diversity of the American chestnut resulted in the high susceptibility to attack by blight, rather than that the low genetic diversity was a direct consequence of the blight pandemic, and that other Castanea species with more diverse allozyme variation are less susceptible to epidemics. In the absence of pre-blight genetic population structure, it is difficult to make any definitive statement on changes in genetic diversity due to the chestnut blight pandemic (Stillwell *et al*. 2003, p. 10).

Summary to Factor C

Information provided by the petitioner and in our files indicates that ink disease does not pose a significant threat now or in the foreseeable future to the continued existence of extant *Castanea pumila* var. *ozarkensis* populations. Information in our files supports the petition's assertion that chestnut blight may pose a substantial threat to the species and that chestnut blight is the greatest threat to the continued existence of *Castanea pumila* var. *ozarkensis*.

While the personal observations cited by the petitioner of *Castanea pumila* var. *ozarkensis* described on a portion of the Ouachita National Forest are informative and useful in understanding the extent of chestnut blight occurrence in the western extreme of the species' range, the information does not indicate any overall change in the species' range, distribution, or abundance in spite of the continued existence of disease threats that have been acknowledged in the past and continue at present. However, information in our files indicates that chestnut blight has adversely affected the biology (sexually reproductive populations are greatly diminished from pre-blight status) of *Castanea pumila* var. *ozarkensis* and other *Castanea* species in the past 70 years since infestation occurred and may threaten the reproductive status and genetic diversity of extant populations. While the overall level of genetic diversity within and among populations of *Castanea pumila* var. *ozarkensis* is not well understood, there is genetic information on other *Castanea* species to suggest that ecological changes and the diminished prevalence of sexual reproduction may reduce the amount and distribution of genetic diversity.

In summary, the chestnut blight has disrupted the life cycle of *Castanea pumila* var. *ozarkensis* by reducing the sexual reproduction to isolated areas, forcing the species to survive mainly by asexual reproduction. The blight has threatened the reproductive status and may threaten the genetic diversity of extant populations. We find that the information provided in the petition, as well as other information in our files, presents substantial scientific or commercial information indicating that the petitioned action may be warranted due to disease from chestnut blight.

D. Inadequacy of Existing Regulatory Mechanisms

No information was presented in the petition, or is available in our files, to indicate that *Castanea pumila* var. *ozarkensis* may warrant listing due to the inadequacy of existing regulatory mechanisms.

E. Other Natural or Manmade Factors Affecting the Species' Continued Existence

No information was presented in the petition, or is available in our files, to indicate that *Castanea pumila* var. *ozarkensis* may warrant listing due to other natural or manmade factors affecting the species' continued existence.

Finding

On the basis of our evaluation of the information presented under section 4(b)(3)(A) of the Act, we have determined that the petition presents substantial scientific or commercial information indicating that listing *Castanea pumila* var. *ozarkensis* throughout its entire range may be warranted due to disease or predation (Factor C). Following a review of the information presented in the petition and readily available in our files, we have determined that substantial information was not presented or available that suggests listing may be warranted due to the present or threatened destruction, modification or curtailment of habitat or range (Factor A). The petition did not include any information related to Factors B, D, and E. Because we have found that the petition presents substantial information indicating that listing *Castanea pumila* var. *ozarkensis* may be warranted, we are initiating a status review to determine whether listing *Castanea pumila* var. *ozarkensis* under the Act is warranted.

The "substantial information" standard for a 90–day finding differs from the Act's "best scientific and commercial data" standard that applies to a status review to determine whether a petitioned action is warranted. A 90–day finding does not constitute a status review under the Act. In a 12–month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90–day finding. Because the Act's standards for 90–day and 12–month findings are different, as described above, a substantial 90–day finding does not mean that the 12–month finding will result in a warranted finding.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Arkansas Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this notice are the staff members of the Arkansas Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq*.).

Dated: May 19, 2010.

Gregory E. Siekaniec,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2010–13069 Filed 5–28–10; 8:45 am]

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R3–ES–2010–0039]
[92220-113-000; ABC Code: C6]

RIN 1018-AW62

Endangered and Threatened Wildlife and Plants; Proposed Rule to remove the Lake Erie Watersnake (*Nerodia sipedon insularum*) from the Federal list of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; critical habitat prudency determination; notice of availability draft post-delisting monitoring plan.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to remove the Lake Erie Watersnake (*Nerodia sipedon insularum*) from the List of Threatened and Endangered Wildlife due to recovery. This action is based on a review of the best available scientific and commercial data, which indicate that the subspecies is no longer endangered or threatened with extinction, or likely to become so within the foreseeable future. Based on our determination that the Lake Erie Watersnake is no longer endangered or threatened with extinction, we have also determined that designation of critical habitat for the Lake Erie Watersnake is not prudent. We seek information, data, and comments from the public regarding the Lake Erie Watersnake, this proposal to delist, and the draft post-delisting monitoring plan. This proposal implements the recommendations from the 5–year status review initiated on April 22, 2008 (73 FR 21643).

DATES: We will consider comments received on or before August 2, 2010. We must receive requests for public hearings, in writing, at the address shown in the **FOR FURTHER INFORMATION CONTACT** section by July 16, 2010.

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

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-R3-ES-2010-0039; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept comments by e-mail or fax. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more information).

FOR FURTHER INFORMATION CONTACT: Mary Knapp, Field Office Supervisor, or Megan Seymour, Wildlife Biologist, U.S. Fish and Wildlife Service Ohio Field Office, 4625 Morse Road, Suite 104, Columbus, OH 43230 (telephone: 614-416-8993). Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at (800) 877-8337 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Public Comments

We intend that any final action resulting from this proposal will be as accurate and effective as possible. Therefore, we request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this proposed rule. We particularly seek comments concerning:

(1) Biological information concerning this subspecies;

(2) Relevant data concerning any current or likely future threats (or lack thereof) to this subspecies, including the extent and adequacy of Federal and State protection and management that would be provided to the Lake Erie Watersnake as a delisted subspecies;

(3) Additional information concerning the range, distribution, population size, and population trends of this subspecies;

(4) Current or planned activities in the subject area and their possible impacts on this subspecies;

(5) What regional climate change models are available, and whether they are reliable and credible to use as step–down models for assessing the effect of climate change on the species and its habitat; and

(6) Our draft post-delisting monitoring plan.

You may submit your comments and materials considering the proposed rule by one of the methods listed in the **ADDRESSES** section. We will not consider comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section.

If you submit a comment via *http://www.regulations.gov*, your entire comment—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post hardcopy comments on *http://www.regulations.gov*.

Comments and materials we receive, as well as supporting documentation we use in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov*, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Ohio Field Office (see **FOR FURTHER INFORMATION CONTACT** section). You may obtain copies of the proposed rule on the Internet at *http://www.regulations.govat* Docket Number FWS-R3-2010-0039, or by mail from the Ohio Field Office (see **FOR FURTHER INFORMATION CONTACT** section).

Public Hearing

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days after the date of this publication in the **Federal Register.** Such requests must be made in writing and addressed to the Field Supervisor (see **FOR FURTHER INFORMATION CONTACT** section). We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings at least 15 days before the first hearing.

Background

The Lake Erie Watersnake is a subspecies of the Northern Watersnake (*N. sipedon sipedon*) that occurs primarily on the offshore islands of western Lake Erie in Ohio and Ontario, Canada, but also on a small portion of the U.S. mainland on the Catawba and Marblehead peninsulas of Ottawa County, Ohio (Conant and Clay 1937, p. 2; King 1986, p. 760). Lake Erie Watersnakes are uniformly gray or brown, and have either no banding pattern, or have blotches or banding that are either faded or reduced (Conant and Clay 1937, pp. 2-5; Camin and Ehrlich 1958, p. 504; King 1987, pp. 243-244) . Female Lake Erie Watersnakes grow up to 1.1 meters (m) (3.5 feet (ft)), long, and are larger than males (King 1986, p. 762). Newborn Lake Erie Watersnakes are the size of a pencil, and are born during late summer or early fall (King 1986, p. 764).

Lake Erie Watersnakes are distinct from Northern Watersnakes in their reduced or absent banding patterns (Conant and Clay 1937, pp. 2-5; Camin and Ehrlich 1958, p. 504; King 1987, pp. 243-244), use of substrates dominated by limestone or dolomite (Conant and Clay 1937, p. 6; King 1986, p.760) , diet composition (Hamilton 1951, p. 64-65), larger body size (King 1989, pp. 85-86),

lower growth rates (King 1986, p. 770), and shorter tails (King 1986, p. 768).

Lake Erie Watersnake summer habitat is composed of rocky shorelines with limestone or dolomite shelves, ledges, or boulders for sunning and shelter. Shelter occurs in the form of loose rocks, piled rocks, or shelves and ledges with cracks, crevices, and nearby vegetation. Rip-rap erosion control, armor stone, and docks incorporating a stone crib structure often serve as summer habitat for the snake. Lake Erie Watersnakes typically forage for fish and amphibians in Lake Erie, and research indicates that more than 90 percent of their current diet is composed of the nonnative, invasive fish round goby (*Neogobius melanostomus*) (King *et al.* 2006b, p. 110). Jones *et al.* (2009, p. 441) report that the mean foraging distance from shore was 85 m (279 ft) and the average water depth of the foraging locations was 3.32 m (10.9 ft). During the summer, 75 percent of Lake Erie Watersnakes are found within 13 m (42.7 ft) of the water's edge (King 2003, p.4). King (2003, p. 4) identified that 75 percent of Lake Erie Watersnakes used 437 m (1433 ft) of shoreline or less as a home range. In the winter, Lake Erie Watersnakes hibernate below the frost level, in cracks or crevices in the bedrock, interstitial spaces of rocky substrates, tree roots, building foundations, and other similar natural and human-made structures. Seventy-five percent of Lake Erie Watersnakes hibernate within 69 m (226 ft) of the water's edge (King 2003, p. 4). Individual snakes often demonstrate site fidelity, returning to the same shoreline area and the same or nearby hibernacula in successive years (King 2003, pp. 4, 11-17).

Additional information on the Lake Erie Watersnake's life history and biology can be found in the final listing rule (64 FR 47126; August 30, 1999) and the Lake Erie Watersnake (*Nerodia sipedon insularum*) Recovery Plan (Service 2003a, pp. 6-11).

Previous Federal Actions

We classified the distinct population segment (DPS) of the subspecies, Lake Erie watersnake, that occurs on the U.S. offshore islands of western Lake Erie as a threatened species on August 30, 1999 (64 FR 47126) under the Endangered Species Act of 1973, as amended (Act). On September 25, 2003, we announced the availability of a final recovery plan for the Lake Erie Watersnake (68 FR 55411). In the recovery plan (Service 2003a, p. G-19) we describe a revision to the common name from "Lake Erie water snake" to "Lake Erie Watersnake" per the peer-reviewed naming convention outlined in "Scientific and Standard English Names of Amphibians and Reptiles of North America North of Mexico, with Comments Regarding Confidence in Our Understanding" (most recent version, Crother 2008, p. 58). Subsequently, we refer to the subspecies as "Lake Erie Watersnake" in this and future documents. On April 27, 2005 the Service received a "60-Day Notice Letter of Intent to Sue for Violation of Section 4 of the Endangered Species Act for Failure to Designate Critical Habitat for the Lake Erie Water Snake" (*Wall and Fremont* v. *DOI*, 1:05-cv-01363-RCL). On May 2, 2006, a Settlement Agreement and Order was stipulated, which included conditions that would prompt the Service to issue a new critical habitat prudency determination. Briefly, the Settlement Agreement stipulated that a new critical habitat prudency determination would be issued by June 1, 2010, provided the Lake Erie Watersnake continues to be a listed species under the Act; or within 90 days of receiving population survey results indicating the snake is not attaining the delisting population goals identified in the recovery plan (Service 2003a). On April 22, 2008, we announced the initiation of a 5–year review for the Lake Erie Watersnake (73 FR 21643). The 5–year review recommended that the Lake Erie Watersnake be delisted due to recovery. Thus, we are submitting this proposal for public review and comment.

Recovery

Section 4(f) of the Act directs us to develop and implement recovery plans for listed species unless the Secretary determines that such a plan will not benefit the conservation of the species. The Service completed the final Lake Erie Watersnake Recovery Plan in 2003 (Service 2003a). We used the Recovery Plan to provide guidance to the Service, State of Ohio, and other partners on methods to minimize and reduce the threats to the Lake Erie Watersnake, to guide and prioritize research on the watersnake, and to provide measurable criteria that would help determine when the threats to the snake had been reduced so that it was no longer endangered or threatened and could be removed from the Federal List of Endangered and Threatened Wildlife (List).

Recovery Plans in general are not regulatory documents and are instead intended to provide a guide on how to achieve recovery. There are many paths to accomplishing recovery of a species in all or a significant portion of its range. The main goal is to remove the threats to a species, which may occur without meeting all recovery criteria contained in a recovery plan. For example, one or more criteria may have been exceeded while other criteria may not have been accomplished. In that instance, the Service may judge that, overall, the threats have been reduced sufficiently, and the species is robust enough, to reclassify the species from endangered to threatened or perhaps to delist the species. In other cases, recovery opportunities may be recognized that were not known at the time the recovery plan was finalized. Achievement of these opportunities may be counted as progress toward recovery in lieu of methods identified in the recovery plan. Likewise, we may learn information about the species that was not known at the time the recovery plan was finalized. The new information may change the extent that criteria need to be met for recognizing recovery of the species. Overall, recovery of a species is a dynamic process requiring adaptive management. Judging the degree of recovery of a species is also an adaptive management process that may, or may not, fully follow the guidance provided in a recovery plan.

The Lake Erie Watersnake Recovery Plan (Service 2003a, pp. 28-30) outlines three recovery criteria, each with two parts, to assist in determining when the snake has recovered to the point that the protections afforded by the Act are no longer needed. All three of the criteria in the Lake Erie Watersnake Recovery Plan have been fully met and, in most cases, substantially exceeded. Each criterion and its attainment are described fully below.

Criterion 1: Population Persistence

Criterion 1(a): Estimated population size reaches or exceeds 5,555 adult Lake Erie Watersnakes on the U.S. islands combined (Kelleys, South Bass, Middle Bass, North Bass, Rattlesnake, West Sister, Sugar, Green, Ballast, and Gibraltar) for a period of 6 or more consecutive years.

Researchers at Northern Illinois University (NIU) have led intensive annual Lake Erie Watersnake censuses since 2001 and have collected data to generate annual adult population estimates as recommended in the Lake Erie Watersnake Recovery Plan (Service 2003a, pp. 39-40). The methodology for conducting censuses and calculating the adult population estimates based on the census data is detailed in King *et al.* (2006a, pp. 88-92). Generally, population estimates are generated using multiple years of mark-recapture data, and applying closed- and open-population methods to analyze the data

(King *et al.* 2006a, pp. 88-92). The preferred and most accurate method for calculating population size, the Jolly-Seber method (Jolly 1965, Seber 1965), requires at least three census periods and does not provide an estimate for the first or last period. Thus, the most recent year for which Jolly-Seber population estimates were generated is 2008. To provide population estimates for 2009, the Lincoln-Petersen method (as modified by Bailey in Caughley 1977, p.142) or Schumacher's method (Caughley 1977, p. 145) or a relationship between population density and capture rate was used, depending on the number of within-year census events and captures at a given sampling location (King and Stanford 2010, p.3). As data are collected each year, previous years' estimates are refined and current year estimates are generated using the above methods.

King and Stanford (2010, p. 11) report the results of these annual adult Lake Erie Watersnake population estimates from the time period encompassing 2001 through 2009. These population estimates indicate that Criterion 1(a) has been fully achieved, and in recent years substantially exceeded, during the period 2001-2009 (see Table 1 below). Based on the most recent population estimates in King and Stanford (2010), this criterion's population goal of at least 5,555 adults was first achieved in 2002 when there were an estimated 6,200 adult watersnakes on the U.S. islands combined, and has remained well above that level for the last 8 years. While the adult population estimate for 2009 seems low compared to other recent years, this is simply a factor associated with the method used to calculate the adult population size for the most recent year's data. As noted above, the Jolly-Seber method cannot be used to generate current-year population estimates, so a different though less exact method is used, depending on the number of within-year census events and capture numbers. It is expected that with another year of census data, the refined population estimates for each island and for the total population for 2009 will be considerably larger and more accurate.

Even more enlightening than the adult population estimates is the calculation of realized population growth of adult Lake Erie Watersnakes since intensive monitoring began in 2001. King and Stanford (2009, p. 6) used the program MARK (White 2004, Cooch and White 2008) to model realized population growth using annual census data from 2001through 2008 at eight intensive study sites with the most complete capture histories. This model documented realized population growth of approximately 6 percent per year for the years 2001-2008, with 95 percent confidence limits of 2-10 percent, providing strong evidence of a minimum of 2 percent population growth per year across multiple sites (King and Stanford 2009, pp. 6-7). This indeed demonstrates that the adult Lake Erie Watersnake population has grown measurably since the time of listing, and validates the population estimates that also show increasing trends. Criterion 1a has been fully achieved.

TABLE 1. TOTAL ESTIMATED U.S. ADULT LAKE ERIE WATERSNAKE POPULATION SIZE, 2001-2009. ESTIMATES THAT EXCEED ISLAND-SPECIFIC AND OVERALL POPULATION SIZE GOALS SPECIFIED IN THE LAKE ERIE WATERSNAKE RECOVERY PLAN (SERVICE 2003A) ARE SHOWN IN **BOLD**. MODIFIED FROM KING AND STANFORD 2010, TABLE 4.

Year	Kelleys	South Bass	Middle Bass	North Bass	Small Islands*	Combined U.S. Islands
Recovery Goal	900	850	620	410	Not applicable	5555
2001	**1860**	**1560**	**770**	160	780	5130
2002	**2160**	**1410**	**1300**	**550**	780	**6200**
2003	**2270**	**1490**	**1920**	270	780	**6730**
2004	**2780**	**1580**	**1740**	**480**	1220	**7800**
2005	**2490**	**1580**	**3140**	**770**	920	**8900**
2006	**2820**	**2790**	**2960**	**1440**	1430	**11440**
2007	**2630**	**2110**	**3660**	**1010**	890	**10300**
2008	**3270**	**2270**	**2610**	**970**	2280	**11400**
2009	**2600**	**2220**	**1090**	**550**	800	**7260**

*See Criterion 1(b)

Criterion 1(b): Subpopulations on each of the five small U.S. islands capable of supporting Lake Erie Watersnakes year-round (Rattlesnake, Sugar, Green, Ballast, and Gibraltar) persist during the same 6-or-more-year-period as Criterion 1a, and estimated population size reaches or exceeds the population size stated below for each of the four largest islands simultaneously during the same 6-or-more-year-period as Criterion 1(a): Kelleys Island—minimum of 900 adults; South Bass Island—minimum of 850 adults;Middle Bass Island—minimum of 620 adults; and (iv) North Bass Island—minimum of 410 adults.

Populations of Lake Erie Watersnakes have been confirmed on the following small U.S. islands throughout the period of 2002-2008: Rattlesnake, Sugar, Green, Ballast, and Gibraltar (King and Stanford 2009, pp. 6, 16). Populations of Lake Erie Watersnakes have persisted on the small islands during the same 6–year period as Criterion 1(a).

As identified in Table 1 above, estimated population sizes for each of the four largest U.S. islands have exceeded their population size criteria for the 7 consecutive years between 2002 and 2008. This is the same consecutive 7–year period as Criterion 1(a), with only one exception—North Bass Island in 2003 (King 2008, pp. 5, 16). King (2008, p. 5) describes the

circumstances of the sampling on North Bass Island that year: "North Bass Island was surveyed just once in 2003 and weather conditions were poor (partly cloudy and cool) during this survey. As a result, capture rates, especially at the NE,E,SE Shore site, were low." King (2008, p. 5) goes on to say that the Lake Erie Watersnake adult population estimate for North Bass Island in 2003 is likely inaccurate because the population estimates for the years prior to and after the 2003 census substantially exceeded the population estimate for 2003, and because watersnakes require 3 to 4 years to reach adulthood. King (2008, p. 5) concludes that, "It is unlikely that these year-to-year differences in estimated population size (from 610 to 270 to 440) reflect true variation in population numbers. Instead, the low estimate for 2003 appears to reflect inadequate sampling in that year."

Based on the information above, it is reasonable to assume that North Bass Island has indeed met the population size criterion for 7 consecutive years, as have the other three largest U.S. islands. Therefore, Criterion 1(b) has been fully achieved.

Criterion 2: Habitat Protection and Management

Criterion 2(a): Sufficient summer and hibernation habitat protected in perpetuity and sustained in a manner suitable for the continued persistence of the Lake Erie Watersnake. Individual parcels will collectively encompass a total of 7.4 kilometers (km) (4.6 mi) of shoreline, and 0.51 km^2 (126 acres (ac)) of inland habitat lying within 69 m (226 ft) of the shoreline on U.S. islands in Lake Erie. To be included under this criterion, each parcel will have a written agreement, which may be represented by a conservation easement (such as is currently offered by the Ohio Department of Natural Resources (ODNR) and Lake Erie Islands Chapter of the Black Swamp Conservancy (LEIC-BSC)) or other habitat management plan that has been approved by the USFWS (such as the "Lake Erie Watersnake Habitat Management Planning" document for Middle Bass Island State Park). Individual parcels may be publicly or privately owned.

Criterion 2(b): Protected shoreline habitat and inland habitat within 69 m (226 ft) of the shoreline, as described in Criterion 2a, will be distributed among the four major islands as follows, with the remaining protected habitat occurring on any of the U.S. islands

(i) Kelleys Island—minimum 1.2 km (0.75 mi) shoreline, 0.083 km^2 (20.5 ac) inland;

(ii) South Bass Island—minimum 1.1 km (0.70 mi) shoreline, 0.078 km^2 (19.3 ac) inland;

(iii) Middle Bass Island—minimum 0.82 km (0.51 mi) shoreline, 0.057 km^2 (14.1 ac) inland; and

(iv) North Bass Island—minimum 0.54 km (0.34 mi) shoreline, 0.037 km^2 (9.1 ac) inland.

By working collaboratively with partners, primarily ODNR, LEIC-BSC, Western Reserve Land Conservancy (WRLC), Put-in-Bay Township Park District, and Cleveland Museum of Natural History (CMNH), we have ensured the permanent protection of 18.03 km (11.27 mi) of shoreline habitat and 0.79 km^2 (313.88 ac) of inland habitat within 69 m (226 ft) of shore (see Table 2 below). The total protected habitat indicated in Table 2 is more than double the goal established in Criterion 2 of the Recovery Plan. Further, as evidenced in Table 2, the goals for each of the four major islands have either been met or exceeded.

TABLE 2. LAKE ERIE WATERSNAKE PROTECTED HABITAT

Island	Property	Land within 69 m of shore		Length of shoreline		Partner
		(ac)	(km^2)	(mi)	(km)	
Kelleys	Kelleys Island State Park; North Pond State Nature Preserve; Kelleys Island Alvar	36.90	0.149	1.09	1.74	ODNR
	Long Point Preserve	21.40	0.087	0.36	0.57	CMNH
	Schollenberger Easement	0.14	0.001	0.02	0.03	LEIC-BSC
subtotal		*58.44*	*0.237*	*1.47*	*2.34*	
South Bass	South Bass Island State Park; Oak Point State Park	12.90	0.052	0.50	0.80	ODNR
	Scheef East Point Nature Preserve	6.4	0.026	0.32	0.52	WRLC
subtotal		*19.30*	*0.078*	*0.82*	*1.32*	
Middle Bass	Middle Bass Island State Park; Kuehnle Wildlife Area	48.70	0.197	1.71	2.74	ODNR
	Petersen Woods	1.55	0.006	0.02	0.03	LEIC-BSC
	Lawrence Evans	0.75	0.003	0	0	LEIC-BSC
subtotal		*51.00*	*0.206*	*1.73*	*2.77*	
North Bass	North Bass Island State Park; Fox's Marsh Wildlife Area	168.80	0.683	6.19	9.90	ODNR
subtotal		*168.8*	*0.683*	*6.19*	*9.90*	
Green	Green Island Wildlife Area	16.34	0.066	1.06	1.70	ODNR
TOTAL		*313.88*	*1.270*	*11.27*	*18.03*	

While the Service's partners in establishing Lake Erie Watersnake protected habitat are all generally conservation organizations, the Service has ensured that some form of permanent protection is in place for each protected habitat. Each property that counts towards Criterion 2 is protected by one of the following methods, which have been reviewed and endorsed by the Service: A permanent conservation easement which specifically incorporates Lake Erie Watersnake habitat management and preservation; a Letter of Agreement between the landowner and the Service indicating that the habitat will be maintained in a natural habitat suitable for the Lake Erie Watersnake in perpetuity; a perpetual management plan to protect Lake Erie Watersnake habitat; or an Environmental Covenant and permanent deed restriction that supports conservation of the Lake Erie Watersnake and its habitat in perpetuity. For example, ODNR's properties compose 90 percent of the total protected inland habitat. In 2005, ODNR submitted to the Service the "Lake Erie Water Snake Habitat Management Planning; Lake Erie Island Properties Owned or Managed by the Ohio Department of Natural Resources" (ODNR 2005, p. 1) document to qualify these properties as recovery habitat for the snake. This document identified specific management actions that will be undertaken on each island property to avoid injury and harm to the Lake Erie Watersnake during typical land management activities such as mowing, tree removal, maintenance and repair of structures, and vegetation control (ODNR 2005, pp. 3-6). Some of these management actions include: avoiding excavation during the Lake Erie Watersnake hibernation season; removing only the above-ground portion of a tree while maintaining the root mass for hibernation habitat; and establishing "no mow buffer zones" within 21 m (70 ft) of the water's edge between the shoreline and more manicured lawn areas to provide summer habitat for the Lake Erie Watersnakes (ODNR 2005, pp. 3-5). Further, the document specifies proactive measures ODNR will implement to enhance watersnake habitat, conduct outreach activities regarding the watersnake, and promote research on the watersnake (ONDR 2005, p. 6). Finally, the document specifies that ODNR will initiate early consultation with the Service prior to submitting an application to a Federal agency to determine how to avoid and minimize impacts to the Lake Erie Watersnake (ODNR 2005, p. 2). The ODNR plans to continue this early coordination, as well as implementing all portions of the Lake Erie Watersnake habitat management plan, after delisting (ODNR 2010, pers. comm.).

Another example of protected habitat is property protected by a conservation easement held by the Lake Erie Islands Chapter of the Black Swamp Conservancy. These easements include as their purpose statement, "The purpose of this Conservation Easement is to permanently maintain the Protected Property as Lake Erie Water Snake habitat as a scenic area of the Lake Erie Island Region and to prevent or remedy any subsequent activity or use that significantly impairs or interferes with this purpose" (Black Swamp Conservancy 2003, p. 2). The easement includes a number of prohibited uses designed to maintain the natural habitat of the property for the Lake Erie Watersnake (Black Swamp Conservancy 2003, pp. 2-3). Finally, the easement includes management guidelines for allowable activities that avoid disturbance of Lake Erie Watersnakes and their habitat (Black Swamp Conservancy 2003, pp. 13-14).

Both ODNR's Habitat Management Plan and Black Swamp Conservancy's Conservation Easement program provide examples of mechanisms for protecting Lake Erie Watersnake habitat, while allowing for reasonable actions such as vegetation maintenance. All areas that qualify as protected habitat for the Lake Erie Watersnake have similar management plans or similar documents, and all of these properties are overseen in some way by ODNR or another conservation-based organization. Based on this information, Criteria 2(a) and 2(b) have been fully achieved.

Criterion 3: Reduction of Human-Induced Mortality

Criterion 3(a): Objective analysis of public attitude on the islands indicates that intentional human persecution is no longer a significant threat to the continued existence of the snake.

As indicated in the final listing rule for the Lake Erie Watersnake (64 FR 47131; August 30, 1999), "persecution by humans is the most significant and well documented factor in the decline of Lake Erie Watersnakes." Lake Erie Watersnake adults are large, readily encountered along the shoreline and in nearshore waters, and cluster in groups during portions of the year. Though not venomous, Lake Erie Watersnakes will bite and secrete musk if handled, and sometimes will not flee when approached by humans. These Lake Erie Watersnake characteristics, coupled with a general fear of snakes among a broad sector of the human population, may have contributed to an increased desire to eliminate them within the island environment, compared to other areas and other species of snake. Therefore the recovery strategy for the watersnake focused heavily on public outreach and education, in an attempt to change the negative perception and hostile behavior of some island residents and visitors towards the watersnake. Public outreach focused on several basic messages: Lake Erie Watersnakes are not venomous, Lake Erie Watersnakes are a natural part of the island environment, and Lake Erie Watersnakes should not be harmed or killed. Several public opinion surveys were recently conducted to gauge island landowner perception of the Lake Erie Watersnake, and past, current, and future behavior towards the snake. Information on public opinion was derived primarily from formal surveys conducted by Wayne Wilkinson, Northern Illinois University (NIU) (Wilkinson 2008) and Andrea Olive (Olive 2008).

The Lake Erie Watersnakes Public Opinion Survey (Wilkinson 2008) of 754 randomly selected island residents within the range of the Lake Erie Watersnake resulted in 348 responses from residents of five U.S. islands, one response from one Canadian island resident, and one response from one non-island resident (Wilkinson 2008, p. 7). Nineteen questions were asked to gauge the general knowledge, perceptions, and threat of human persecution among island residents. Respondents were also given the opportunity to provide written comments. Several of the survey questions were identical to survey questions asked of island residents in a 1999 public opinion survey (Service 1999), and answers were compared to determine changes over time.

Responses from the 2008 survey indicate that 99 percent of respondents are aware that the Lake Erie Watersnake occurs on the island, and that 94 percent of respondents are aware that it is a protected animal (Wilkinson 2008, pp. 1, 5). Eighty-three percent of respondents indicate that their knowledge of Lake Erie Watersnake has increased since listing in 1999 (Wilkinson 2008, pp. 5). Respondents cite a large variety of methods by which they have become more familiar with the snake, including: the Service and ODNR's biannual newsletter "LEWS News"; the "Island Snake Lady" (an NIU researcher funded by ODNR and the Service), and; various media sources

(Wilkinson 2008, pp. 2-4). Generally, these data indicate that Federal, State, and nongovernmental organizations' outreach and education campaigns are reaching the vast majority of island residents, and are helping to increase their access to information about the watersnake.

Additionally, Wilkinson (2008, p. 1) reports that 66 percent of respondents indicated that their attitude toward the watersnake is generally positive or neutral, while 34 percent indicate that their attitude is generally negative. While it is apparent that not all residents feel positively toward the snake, it is very notable that, despite human persecution being the most significant factor in the decline of the Lake Erie Watersnake, only about 4 percent of respondents indicated they had knowingly killed a watersnake since the time of listing, and only about 14 percent of respondents said they would knowingly kill a watersnake if it was no longer protected by State or Federal laws (Wilkinson 2008, p. 6). We interpret these responses to indicate that, while the watersnake will still face some human persecution, the vast majority of islanders would not resort to lethal means if they encountered watersnakes on their property.

Similarly, in 2007, Olive (2008, p. 83) randomly selected and interviewed 44 individual property owners from Middle Bass Island regarding the Endangered Species Act and the Lake Erie Watersnake. Of those interviewed, 7 percent admitted to killing a snake and 18 percent admitted they might kill a snake while it is listed (Olive 2008, pp. 112-113, 153).

Despite the admitted intentional mortality documented by both Wilkinson (2008, p. 6) and Olive (2008, pp. 112-113, 153) adult Lake Erie Watersnake populations have increased substantially since the time of listing, both across the U.S. range and on each large island (King and Stanford 2010, p. 11; King and Stanford 2009, pp. 6-7). This indicates that the adult Lake Erie Watersnake population can tolerate some degree of intentional mortality of individual snakes and still persist at a recovery level.

Wilkinson's 2008 public opinion survey found that 31 percent of respondents' attitudes toward Lake Erie Watersnakes have become more negative since listing, 30 percent have become more positive, and 39 percent have not changed (Wilkinson 2008, p1). While this survey did not attribute reasons to the change in attitude, 69 out of 168 (41 percent) of the optional comments on Wilkinson's (2008, pp. 8-13) survey response form indicated the belief that there are now too many snakes, that the snakes are becoming nuisances due to their numbers and their habits of clustering along the shoreline, or that the snakes should no longer be protected.

Public opinion of the Lake Erie Watersnake varies widely among those who support it, those who have no opinion, and those that dislike or fear the snake. Outreach efforts have reached nearly all island residents, increasing access to information about the Lake Erie Watersnake, including non-lethal ways to address nuisance snakes. Opinion surveys seem to indicate that most people do not now and will not in the future kill Lake Erie Watersnakes, however many people indicate that the sheer number of snakes along the shoreline has become a nuisance, and this may contribute to negative feelings towards the snake. As Lake Erie Watersnake numbers have rebounded, and a significant amount of habitat has now been permanently protected to support Lake Erie Watersnakes, the Lake Erie Watersnake population can withstand a limited amount of intentional mortality. While the threat of intentional mortality likely can never be completely eliminated, results of public opinion surveys indicate that the number of mortalities anticipated from intentional human persecution on its own and with other residual threats is not likely to cause the subspecies to become threatened or endangered again within the foreseeable future.

Continued outreach regarding the Lake Erie Watersnake's role in the island ecosystem is important, and this is proposed to continue through various partners post-delisting. Proposed on-going outreach activities are addressed in the Summary of Factors Affecting the Species - Factor E, below. Public opinion will be monitored post-delisting to ensure this remnant threat is not affecting the Lake Erie Watersnake population as a whole. Therefore, Criterion 3(a) has been fully achieved.

Criterion 3(b): Accidental human-induced mortality, such as occurs from roadkill and fishing, has been reduced to the maximum extent practicable, and no longer represents a significant threat to the population.

Several sources of accidental human-induced mortality have been examined to determine to what degree they may be contributing to overall mortality of Lake Erie Watersnakes, and if they are a significant threat to the population.

A survey of registered boaters in the Lake Erie island region was conducted to determine how many members of the Lake Erie Island boating and fishing community had direct encounters with snakes, and to characterize the responses from these encounters (Stanford 2004). Of 1,437 surveys mailed out, 468 were completed and returned (Stanford 2004, p. 1). An additional 21 surveys were completed voluntarily by individuals who picked them up at various outreach events that occurred in the vicinity of the islands, for a total of 489 survey responses (Stanford 2004, p. 1). Of the respondents, 118 reported having encountered a watersnake on their boat, and not a single encounter resulted in a boater or angler killing a snake (Stanford 2004, p. 2). These data suggest that encounters between boaters and watersnakes typically do not result in mortality. Only 13 of the 489 respondents (less than 3 percent) indicated that they have ever caught a snake by hook and line while fishing with both live and artificial baits, and from both boat and shore, though no information was provided regarding snake mortality during these incidents (Stanford 2004, p. 2). It is clear that bycatch of Lake Erie Watersnakes due to hook and line fishing incidents is very rare, and does not pose a significant threat to the population. Despite the rarity of mortality during fishing and boating, approximately 25 percent of boaters and anglers near the Lake Erie islands may encounter a Lake Erie Watersnake (Stanford 2004, p. 2). ODNR Division of Wildlife developed pamphlets entitled, "Lake Erie Watersnake-Make your Boating Experience More Pleasant" to aid anglers and boaters in deterring Lake Erie Watersnakes from entering their boats, and to recommend non-lethal methods to remove snakes from boats (ODNR 2003). These pamphlets are available online (*http://respectthesnake.com*) and at a number of state parks, boat launches, and marinas in the island region.

To address the effect roadkill mortality may have on the Lake Erie Watersnake population a survey of roadkill mortality was conducted on the four large U.S. islands between June 26 and July 15, 2005 (King 2007, pp. 5-6). This survey found a total of 71 roadkill snakes, including 45 roadkill Lake Erie Watersnakes (King 2007, p.5). King (2007, p. 6) states, "Among watersnakes, 38 were neonates, 5 were juveniles, and 2 were adults. These results suggest that adult Lake Erie Watersnake roadkill mortality is relatively low (Brown and Weatherhead 1999). Available data on watersnake mortality suggest that survivorship of neonates is low. Thus, roadkill mortality of this age-class likely has little impact on watersnake

population trends." Therefore, the number of mortalities anticipated from accidental human-induced mortality due to roadkill events alone or coupled with other residual threats is not likely to cause the subspecies to become threatened or endangered again within the foreseeable future.

The Lake Erie Watersnake Recovery Plan (Service 2003a, pp. 18, 38, 49, 57) recommended that additional studies be conducted to document the impact that invasive species, including the round goby, may have on the watersnake. King *et al.* (2006b, p. 110) found that since the appearance of round goby in the Great Lakes in the early 1990's, Lake Erie Watersnake diets have shifted from a diet of native fishes and amphibians to a diet composed of more than 90 percent round goby. This dietary shift corresponds to increased watersnake growth rates, increased body size, and increase in fecundity, with female watersnakes producing on average 25 percent more offspring post-invasion (King *et al.* 2008, pp.155, 158; King *et al.* 2006b, pp.111-113). King *et al.* (2008, p. 159) suggest that, "resource availability may have contributed to population declines in Lake Erie Watersnakes during the mid- to late-1900s...While habitat loss and human-caused mortality are likely contributors to past watersnake population declines, the possibility exists that a reduction in benthic [lake bottom] fish biomass, resulting in reduced watersnake fecundity, was also a factor. Unfortunately, quantitative data on long-term temporal trends in benthic fish biomass are lacking." If it is correct that limited foraging opportunities were a cause of the watersnake's population declines, the overabundance of the round goby within the island region of western Lake Erie will likely provide a significant prey source into the foreseeable future, negating any threats from limited prey availability.

The Lake Erie Watersnake Recovery Plan (Service 2003a, pp. 18-19, 38, 49, 57) also recommended that additional studies be conducted to document the impact that contaminants may have on the watersnake. In particular, this research became a high priority when it became apparent that the watersnake's diet switched from native fish and amphibians to almost exclusively round goby, which prey extensively on zebra mussels (*Dreissena polymorpha*) and quagga mussels (*Dreissena bugensis*). Potential biomagnification of contaminants through this change in food web was thought to be a possible threat to the watersnake. Polychlorinated biphenyls (PCBs) have been documented in Lake Erie Watersnakes in fairly high levels (113 micrograms per gram (µg/g) (Bishop and Rouse 2006, pp. 454, 456) and 167 µg/g (Bishop and Rouse 2000, pp. 500-501)). Recent research compared the levels of contaminants in Lake Erie Watersnakes pre- and post-goby invasion and found "a marginal increase in hexachlorobenzene levels, and a significant decline in dieldrin, oxychlordane, and heptachlor epoxide," and found that, "sum PCBs and p,p'-DDE remained stable in the watersnakes after the invasion of round goby...suggesting that although the dietary switch to round gobies meant consumption of a more contaminated diet, their diet remained at the same trophic position [place in the food chain]" (Fernie *et al.* 2008 p. 344). Fernie *et al.* (2008, pp. 344, 349-350) did recommend additional studies to determine if these contaminants affect reproductive and physiological parameters in Lake Erie Watersnakes; however, as Bishop and Rouse (2006, pp. 452, 454, 456) did not correlate high levels of PCBs with embryonic mortality or number of embryos produced by female watersnakes, no additional research on contaminants is deemed necessary at this time.

Research confirms that the dietary switch from native fish and amphibians to round gobies has not resulted in significant increases in contaminant loads in Lake Erie Watersnakes. Additionally, while relatively high levels of PCBs were detected in watersnakes in the past, these levels did not correspond with embryonic survivorship. Lake Erie Watersnake population numbers continue to increase despite relatively stable exposure to contaminants over the past 18 years of study, and therefore we conclude at this time and into the foreseeable future that contaminants do not pose a significant threat to the Lake Erie Watersnake.

As described further under Summary of Factors Affecting the Species - Factor A and Factor E below, intensive public outreach has occurred to increase awareness of island residents and visitors of the presence of the Lake Erie Watersnake on the Lake Erie islands and in nearby waters, and to reduce both accidental and intentional mortality of Lake Erie Watersnakes. To reduce accidental mortality from typical land management activities such as lawn mowing and tree clearing, and to guide residents in an appropriate way to address Lake Erie Watersnakes that are found in garages, pools, lawns, patios, basements, and other similar areas, various outreach documents have been developed by both the Service and ODNR. The Service's "Lake Erie Watersnake Management Guidelines for Construction, Development, and Land Management Activities" (Service 2009, Service 2003b) provide guidance on how to avoid take during typical land-management activities, while ODNR's "A Lakeshore Property Owner's Guide to Living with Lake Erie Watersnakes" (ODNR 2006) provides guidance on dealing with nuisance snakes in human living areas in a non-lethal way. These documents are available on the internet (*http://respectthesnake.com*) and at various locations on the islands.

In summary, we have assessed the impact of accidental human-induced mortality on the adult Lake Erie Watersnake population. We have used an intensive public outreach campaign to increase awareness of residents and visitors to the presence and protected status of the Lake Erie Watersnake, and have provided guidance and tools for minimizing human-snake encounters and addressing snakes encountered in boats, homes, yards, and other human-inhabited areas in a non-lethal way. We have determined that accidental human-induced mortality, such as occurs from boating, fishing, and roadkill events, does not pose a substantial threat to the adult Lake Erie Watersnake population, and therefore does not warrant further action. Further, invasive species and contaminants do not appear to significantly threaten the adult Lake Erie Watersnake population. We assert that Criterion 3(b) has been achieved.

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for listing species, reclassifying species, or removing species from listed status. "Species" is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any distinct vertebrate population segment of fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). Once the "species" is identified, we then evaluate whether that species may be endangered or threatened because of one or more of the five factors described in section 4(a)(1) of the Act. We must consider these same five factors in delisting a species. We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened because (1) The species is extinct, (2) the species has recovered and is no longer endangered or threatened, or (3) the original scientific data used at the time the species was classified were in error.

A recovered species is one that no longer meets the Act's definition of threatened or endangered. The analysis for a delisting due to recovery must be based on the five factors outlined in section 4(a)(1) of the Act. This analysis must include an evaluation of threats that existed at the time of listing, those that currently exist, and those that could potentially affect the species once the protections of the Act are removed.

In the context of the Act, the term "threatened species" means any species or subspecies or, for vertebrates, Distinct Population Segment (DPS) that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The term "endangered species" means any species that is in danger of extinction throughout all or a significant portion of its range. The Act does not define the term "foreseeable future." For the purpose of this proposal, we define the "foreseeable future" to be the extent to which, given the amount and substance of available data, we can anticipate events or effects, or reliably extrapolate threat trends, such that we reasonably believe that reliable predictions can be made concerning the future as it relates to the status of the Lake Erie Watersnake.

The following analysis examines all five factors currently affecting, or that are likely to affect, the Lake Erie Watersnake within the foreseeable future.

A.The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The islands on which the Lake Erie Watersnake occurs provide seasonal residences and vacation areas to large numbers of people during the summer months. Further, the western Lake Erie basin is widely known for recreational and fishing opportunities, and is a regional destination area, particularly during the summer months. It is therefore not surprising that most of the islands have faced and continue to face development pressure (Seymour 2009, pers. comm.).

Prior to listing, three of the large islands (Kelleys, Middle Bass, and South Bass) were fairly well developed with residences and small-scale commercial businesses, with scattered natural areas throughout. North Bass Island supported a few residences, but was primarily agricultural, and dedicated to viticulture (vineyards). The small islands are mostly privately owned, and typically support a few residences interspersed with natural areas. Development activities on the islands since the Lake Erie Watersnake was listed in 1999 include the following types of projects: residential construction on three of the four large islands; hotel and motel structures on two of the large islands; dock construction and rehabilitation on most of the islands; shoreline stabilization on most of the islands; small and large marina construction and rehabilitation on several of the islands; utility line installation on three of the large islands; road rehabilitation projects on two of the large islands; wastewater treatment facilities on several of the islands; beach nourishment projects on several of the islands; small-scale commercial development on several of the large islands; and airport upgrades on several of the islands (Seymour 2009, pers. comm.). Many of these activities occur on or near the shoreline, where Lake Erie Watersnakes spend much of their time. In some cases, development activities can result in habitat loss or degradation, for example, when a building is constructed along a segment of shoreline that previously supported natural vegetation, or when a vertical wall is constructed along the shoreline to protect against erosion. However, some types of development actually provide suitable Lake Erie Watersnake habitat. For example, Lake Erie Watersnakes will readily use rip-rap or armor stone erosion control structures and crib docks that incorporate stone fill for summer habitat.

Destruction or Modification of Summer Habitat

As described in the **Background** section, Lake Erie Watersnake summer habitat consists of the rocky and vegetated island shorelines and the adjacent nearshore waters of Lake Erie. Seventy-five percent of adult Lake Erie Watersnakes are found within 13 m (42.7 ft) of the water's edge during the summer (King 2003, p. 4). Destruction or modification of summer habitat typically occurs due to residential or, less often, commercial development, installation or modification of roadways and associated utilities, shoreline erosion control projects, dock construction or modification, and dredging activities. These activities may result in loss or degradation of rocky shorelines, vegetation, and nearshore aquatic habitats, which the snakes use for basking, resting, cover, mating, and foraging.

Lake Erie Watersnakes are affected by summer habitat destruction and modification in a variety of ways, depending on the method, design, and timing of the specific project. Lake Erie Watersnakes are resilient to many modifications to summer habitat, such as installation of rip-rap erosion control structures and crib docks. Repeated observations over multiple years document that individual Lake Erie Watersnakes displaced during construction activities will return to the same area once construction is complete, so long as rocky or vegetated shoreline habitat is present (Stanford 2009, pers. comm.). Further, artificial habitat such as crib docks and rip-rap erosion control are known to support large number of Lake Erie Watersnakes during the summer season on all of the large islands, and may actually provide habitat where natural rocky shoreline habitat was previously limited. Projects that impact summer habitat, but occur during the winter season, may have no observable impacts on the Lake Erie Watersnake, while projects that impact summer habitat during the summer may cause temporary displacement of Lake Erie Watersnakes from all or a portion of their shoreline home range. The vast majority of the islands' shorelines are either composed of small private lots or larger parcels (typically ODNR properties) that are protected Lake Erie Watersnake habitat. In most cases, projects that impact Lake Erie Watersnake summer habitat occur on small private parcels, and therefore impacts will be limited to only a small portion of an individual snake's home range.

There are only a few activities that may permanently displace Lake Erie Watersnakes from their summer habitat, including installation of vertical steel or concrete walls along the shoreline or over the sides of existing rock-filled crib docks. In instances where homes, businesses, roads, or other similar structures are built close to the shoreline, the presence of manicured lawns and shorelines may degrade summer habitat through loss of cover, though Lake Erie Watersnakes are often encountered basking in grassy areas near the shoreline, despite the presence of homes or roads. While Lake Erie Watersnakes may use grassy areas near shorelines and roads for basking, this habitat is not ideal because snakes are highly visible and may be more susceptible to predation or human persecution, and less cover is generally available in these areas. Further, maintenance activities such as mowing may kill or injure snakes that use maintained grass areas. Finally, snakes basking along road edges may be more susceptible to road kill than snakes basking near natural shorelines. Threats such as roadkill and human persecution are addressed under Factor E below.

Impacts to foraging habitat (Lake Erie) are typically limited to fill placement

for erosion control, docks, or navigation structures, or dredging to facilitate navigation. All impacts to foraging habitat are regulated by the U.S. Army Corps of Engineers (Corps) through section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act (see Factor D). Projects such as these typically cover only a small geographic area, and are of limited duration. Impacts to the Lake Erie Watersnake from these activities may include a limited amount of foraging habitat loss due to placement of fill within Lake Erie, degradation of foraging habitat due to short-term turbidity, and temporary displacement from foraging areas where construction activities are occurring. While watersnakes may be temporarily displaced from foraging habitat during construction, on repeated occasions over multiple years, individual Lake Erie Watersnakes have been documented recolonizing disturbed foraging areas shortly after construction activities are complete (Stanford 2009, pers. comm.). As noted above, the primary prey of Lake Erie Watersnakes is round goby, and these fish are superabundant in the island region (King *et al.* 2006b, p. 110). Foraging habitat and prey do not appear to be a limiting factor for Lake Erie Watersnakes, and therefore limited construction activities within foraging habitat are not anticipated to have significant impacts on Lake Erie Watersnakes.

Prior to listing, summer habitat modification included the activities described above, but of particular concern was the proliferation of sheet steel docks and vertical concrete and steel shoreline walls. Development of homes, businesses, and roads along the island shorelines may have degraded natural watersnake habitat to some degree, but as described above, Lake Erie Watersnakes appear to be fairly resilient to the presence of these types of structures, as long as rocky or vegetated shorelines persist once construction is complete.

Since the time of listing, most destruction and modification of Lake Erie Watersnake summer habitat has been subject to consultation under section 7 of the Act through the issuance of Corps permits under section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act (see Factor D). These laws provide the Service the opportunity to review and comment on all projects affecting Lake Erie Watersnake foraging habitat and many projects affecting shoreline habitat. Under these authorities, the Service has consistently recommended installation of rip-rap erosion control structures and crib docks in lieu of vertical concrete or sheet steel structures, seasonal timeframes for construction activities if appropriate, educational signage, and other appropriate avoidance and minimization measures. This consultation has reduced shoreline habitat degradation substantially, and has resulted in the creation of artificial shoreline habitat for Lake Erie Watersnakes on many islands.

We anticipate that similar projects impacting the islands' shorelines and the Lake Erie Watersnake's summer habitat will continue into the foreseeable future. As noted above, the vast majority of these projects are regulated by section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act, and as such, the Service will still have the opportunity to review and comment on these Corps projects via the Public Notice process. The Service will continue recommending rock structures as opposed to vertical structures on these types of projects, under the authority of the Fish and Wildlife Coordination Act, as rock structures are beneficial not only to snakes, but to fish and other aquatic species as well. We anticipate that construction of shoreline structures beneficial to Lake Erie Watersnakes will continue into the foreseeable future.

The destruction or modification of summer habitat may temporarily displace individual watersnakes, but these impacts do not affect the population as a whole. Shoreline habitat loss has been minimized while the species has been listed and is expected to remain minimal within the foreseeable future due to coordination and consultation with the Corps under section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act, and use of snake-friendly designs such as rip-rap and crib docks. Lake Erie Watersnakes have been documented to readily use these structures for summer habitat. Further, while shoreline construction activities may temporarily displace Lake Erie Watersnakes from portions of summer habitat, they will readily recolonize these areas shortly after construction activities are complete, as long as rocky or vegetated shorelines still exist (Stanford 2009, pers. comm.). Destruction and modification of foraging habitat is typically limited in scope and duration, and does not appear to be a limiting factor for the watersnake. However, the Service plans to address potential impacts to summer habitat by use of voluntary guidelines and by the presence of permanently protected habitat for the Lake Erie Watersnake, both described further below.

Destruction or Modification of Hibernation Habitat

As described in the **Background** section, during winter (generally mid-September through mid-April) Lake Erie Watersnakes hibernate below the frost level, in cracks or crevices in the bedrock, interstitial spaces of rocky substrates, tree roots, building foundations, and other similar natural and human-made structures (King 2003, pp. 5, 11-18). Seventy-five percent of Lake Erie Watersnakes hibernate within 69 m (226 ft) of the water's edge (King 2003, p. 4). Individual snakes often demonstrate site fidelity, returning to the same shoreline area and the same or nearby hibernacula in successive years (King 2003, pp. 4, 11-17).

Destruction or modification of hibernation habitat typically occurs due to residential or less often, commercial development, installation or modification of roadways or utilities, removal of tree roots, agriculture, and other excavation activities in areas within approximately 69 m (226 ft) of the shoreline. These activities may result in excavation, filling, or general disturbance of the rock, soil, root or other substrates within which Lake Erie Watersnakes hibernate.

Lake Erie Watersnakes are affected by hibernation habitat destruction and modification in a variety of ways, depending on the extent and timing of the specific project. Destruction or modification of hibernation habitat during the winter when Lake Erie Watersnakes are hibernating will likely result in death of hibernating snakes due to exposure, as well as the loss of the hibernacula for future generations of snakes. Destruction or modification of hibernation habitat during the summer when Lake Erie Watersnakes are not hibernating may result in temporary or permanent displacement from the hibernation area, and may force the snakes to find alternate hibernation sites. Though Lake Erie Watersnakes often demonstrate hibernacula fidelity, individual snakes have survived the winter when accidentally relocated to areas outside of their home range (King and Stanford 2009, p. 8), and when documented moving between islands (King 2002, p. 4), indicating that they are capable of finding new hibernation sites when previous sites are inaccessible. While this indicates that some Lake Erie Watersnakes are able to locate suitable alternate hibernacula, it is also likely that some Lake Erie Watersnakes are unable to locate suitable alternate hibernacula and die

from exposure or predation. As Lake Erie Watersnakes appear to use a variety of substrates and materials as hibernation habitat, and hibernation habitat sufficient to support approximately 50 percent of the adult Lake Erie Watersnake population is now protected, it is unlikely that the presence of suitable hibernation habitat is a limiting factor for the snake. It is more likely that loss of hibernation habitat during the winter when watersnakes are using it is problematic due to the accompanying mortality.

Prior to the Watersnake's 1999 listing, three of the four large islands were subject to substantial residential and commercial development. North Bass Island, while not subject to substantial development, was intensively farmed for grapes. Destruction and modification of hibernation habitat for development and agricultural activities likely occurred on a regular basis throughout the year. During portions of the Watersnake's hibernation season, the lake and ground are frozen and snow-covered, limiting access to construction vehicles and likely precluding some, but not all, ground-disturbing activities. Therefore, it is likely that Lake Erie Watersnakes were injured or killed during excavation or filling activities within hibernation habitat that occurred during the hibernation season. It is also likely that Lake Erie Watersnakes were displaced from their hibernation habitat when excavation or filling of hibernacula occurred during the summer months.

Since listing, many excavation or filling activities within proximity to the shoreline have been coordinated with the Service to determine if the activity would result in take of Lake Erie Watersnakes or to determine if avoidance or minimization measures were warranted. Some projects involving small areas of excavation, excavation of topsoil only, or excavation far inland from the shoreline were completed during the summer months and were not anticipated to cause direct mortality or substantial displacement of Lake Erie Watersnakes. Other projects that resulted in substantial excavation or fill within proximity to the shoreline were anticipated to destroy or modify hibernacula and cause take of Lake Erie Watersnakes, and for these projects, formal consultation under section 7 of the Act or the issuance of a section 10(a)(1)(B) permit under the Act occurred. During the 11–year period during which Lake Erie Watersnakes have been listed, only five projects were anticipated to cause loss of hibernation habitat and take of Lake Erie Watersnakes. So while development is fairly evenly spread across three of the large islands, most projects reviewed since the Watersnake's listing did not cause loss of hibernation habitat.

We anticipate that within the foreseeable future, loss of Lake Erie Watersnake hibernation habitat will likely proceed at approximately the same rate as within the past 11 years. We anticipate that approximately one large-scale development every 2.5 years will cause loss of Lake Erie Watersnake hibernation habitat (Seymour 2009, pers. comm.). The presence of hibernation habitat is not likely a limiting factor for the subspecies; however to limit mortality of watersnakes, it is important that large-scale excavation or filling activities within approximately 69 m (226 ft) of the shoreline do not occur during the winter hibernation season. Once the species is delisted, there will be no requirement to consult with the Service on activities that may affect hibernation habitat, nor is there a separate Federal nexus that would trigger Service review of the project as is the case with projects that may affect summer habitat. The Service has addressed this gap in hibernation habitat protection and management by the presence of permanently protected habitat for the Lake Erie Watersnake, and by use of voluntary guidelines, both described further below.

The destruction or modification of hibernation habitat may displace individual watersnakes and result in minimal mortality, but these impacts do not affect the population as a whole. Hibernation habitat loss during listing was minimal, and within the foreseeable future is likely to continue to be minimal, based on recent trends (Seymour 2009, pers. comm.). Lake Erie Watersnakes have recently been documented to survive winters despite their former hibernacula being inaccessible, indicating they are capable of finding alternate hibernacula if historical hibernacula are lost. The potential loss of some hibernation habitat due to development post-delisting will be alleviated by the presence of permanently protected habitat on each of the large islands, described further below.

Protected Habitat

While it is true that Lake Erie Watersnakes are fairly resilient to some habitat modifications and persist along and within developed areas, the Service recognizes that it is important to also have portions of habitat that are permanently protected and managed to benefit the Lake Erie Watersnake, and which will provide a substantial amount of suitable summer and hibernation habitat for the snake in the foreseeable future. The Lake Erie Watersnake Recovery Plan called for the permanent protection and management of summer and hibernation habitat sufficient to support 20 percent of the recovery population goal of 5,555 adult Lake Erie Watersnakes (Service 2003a, p.34). This habitat must encompass a total of 7.4 km (4.6 mi) of shoreline, and 0.51 km^2 (126 ac) of inland habitat lying within 69 m (226 ft) of the shoreline on U.S. islands in Lake Erie (Service 2003a, p. 29). Additionally, this habitat must be distributed among the large U.S. islands as described below to support multiple subpopulations throughout the range of the subspecies: Kelleys Island—1.2 km (0.75 mi) shoreline, 0.083 km^2 (20.5 ac) inland; South Bass Island—1.1 km (0.70 mi) shoreline, 0.078 km^2 (19.3 ac) inland; Middle Bass Island—0.82 km (0.51 mi) shoreline, 0.057 km^2 (14.1 ac) inland; and North Bass Island—0.54 km (0.34 mi) shoreline, 0.037 km^2 (9.1 ac) inland (Service 2003a, p. 29). The remaining protected habitat may occur on any of the U.S. islands. To be included as protected habitat, each parcel will have a written agreement, which may be represented by a conservation easement or other habitat management plan that has been approved by the USFWS (Service 2003a, p. 29) and protects Lake Erie Watersnake habitat in perpetuity.

As discussed in the **Recovery** section, by working collaboratively with partners, primarily ODNR, LEIC-BSC, Western Reserve Land Conservancy, Put-in-Bay Township Park District, and Cleveland Museum of Natural History, we have ensured the permanent protection and management of 18.03 km (11.27 mi) of shoreline habitat and 1.270 km^2 (313.88 ac) of inland habitat within 69 m (226 ft) of shore (see Table 2) in perpetuity. The total protected habitat indicated in Table 2 above is more than double the goal established in Criterion 2 of the Recovery Plan, and is sufficient to support nearly 50 percent of the recovery population goal of 5,555 adult Lake Erie Watersnakes. Further, as evidenced in Table 2, the recovery goals for protected habitat on each of the four major islands have either been met or exceeded. This protected habitat will provide a series of permanent refugia distributed across the islands and across the U.S. range of the subspecies that can support a substantial portion of the Lake Erie Watersnake population.

Voluntary Guidelines

Destruction or modification of hibernation habitat during the winter months when Lake Erie Watersnakes are

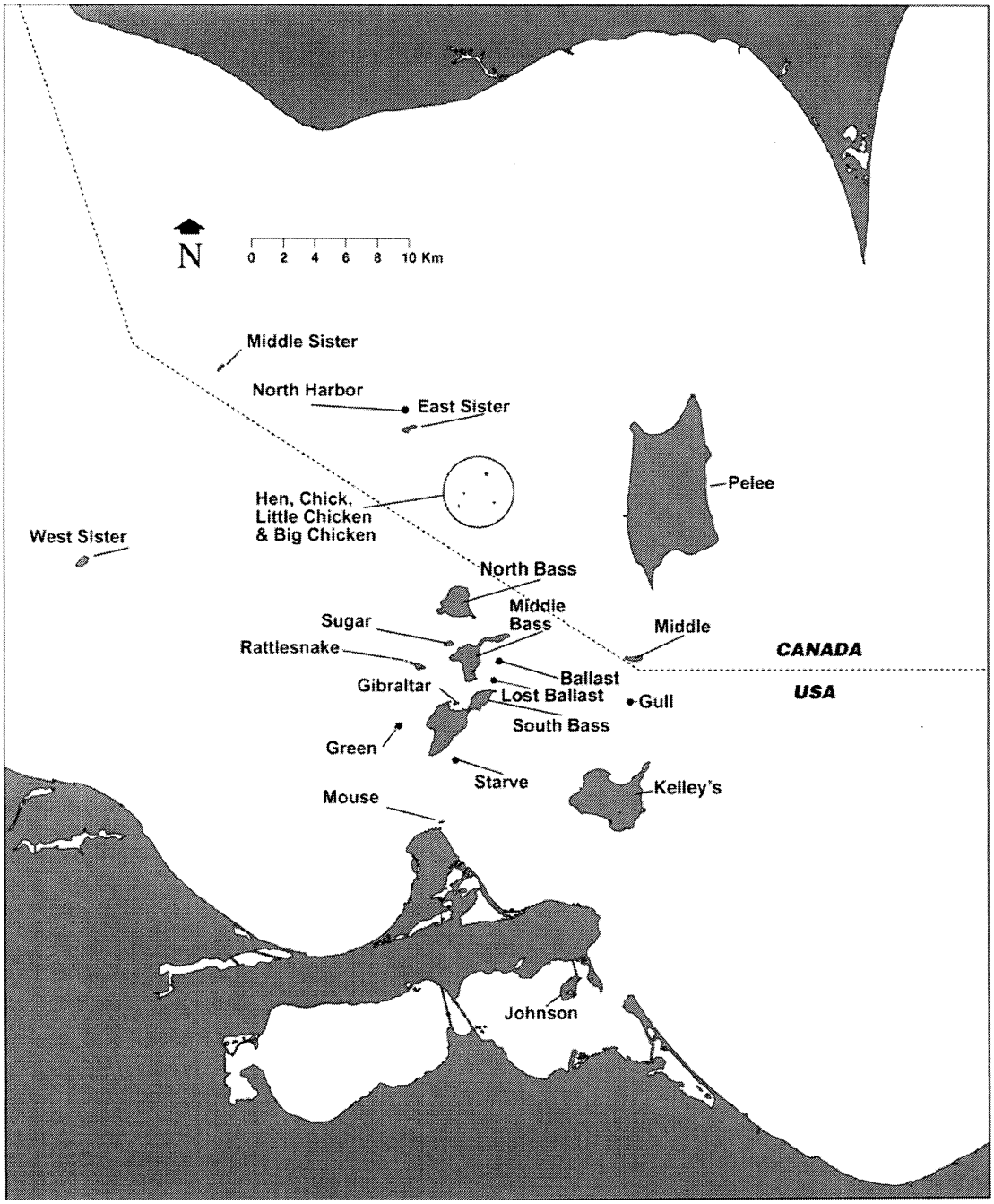
using such habitat may result in mortality of individual snakes, but will not threaten the population as a whole once the protection of the Act is removed. If snakes are excavated during the hibernation season it is unlikely that they would be able to search for and find alternate hibernacula due to cold temperatures and frozen or snow-covered ground, and would not survive exposure to winter weather. Once the species is delisted, no regulatory options will exist to address timing of impacts to hibernation habitat. To minimize impact to individual Watersnakes from this threat, the Service will widely distribute a revised version of "Lake Erie Watersnake Management Guidelines for Construction, Development, and Land Management Activities" (Service 2009). Further, we will recommend to local governments that they adopt and broadly distribute these voluntary guidelines.

The Service initially developed Lake Erie Watersnake Management Guidelines for Construction, Development, and Land Management Activities (Service 2009, Service 2003b) when the subspecies was listed. These voluntary guidelines were intended to substantially reduce the potential for take to occur during typical private and public land management activities such as lawn mowing, tree cutting, and excavation activities. The guidelines recommend seasonal restriction on activities such as excavation and mowing, design recommendations for shoreline structures that will enhance Lake Erie Watersnake summer habitat, and suggestions for monitoring snakes during construction activities (Service 2009, p. 1-2; Service 2003b, pp. 2-4). Though the guidelines are voluntary, they have been added as mandatory conditions on Federal permits and as Reasonable and Prudent Measures in Biological Opinions and Incidental Take Statements to avoid and minimize take during the completion of projects that required section 7 consultation or section 10 permits under the Act (for example, see Service 2008, p. 5). If the subspecies is delisted, these guidelines will still be recommended under the auspices of the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661-667e) when reviewing Federal activities that are planned within Lake Erie Watersnake habitat areas. This will aid in avoiding and minimizing habitat loss to individual watersnakes due to typical land management actions on private property. However, for any incidental take statements or incidental take permits that have already been issued under sections 7 or 10 of the Act, but for which the projects have not yet been implemented, Lake Erie Watersnake conservation measures will no longer be mandatory.

Range Curtailment

The historical range of the Lake Erie Watersnake includes the offshore islands of the western Lake Erie basin in the U.S. and Canada and portions of the Catawba-Marblehead peninsula on the mainland of Ohio, though the threatened DPS includes only those Lake Erie Watersnakes occurring on U.S. islands greater than 1.6 km (1 mi) from the Ohio mainland (64 FR 47126). The U.S. islands and rock outcrops within the historic range include, but are not limited to, the islands called Kelleys, South Bass, Middle Bass, North Bass, Sugar, Rattlesnake, Green, Gibraltar, Starve, Gull, Ballast, Lost Ballast, West Sister, Mouse, and Johnson. The Canadian islands and rock outcrops within the historical range include, but are not limited to, the islands called Pelee, Middle, East Sister, Middle Sister, North Harbour, Hen, Chick, Big Chicken, and Little Chicken (Figure 1).

BILLING CODE 4310–55–S



BILLING CODE 4310–55–C

Figure 1. Historical range of Lake Erie Watersnake within the western Lake Erie basin of Ohio and Canada. Map courtesy of Barbara Ball and Department of Biological Sciences, Northern Illinois University.

At the time of listing, Lake Erie Watersnakes had been extirpated from two U.S. islands within the range, Green and West Sister, and two Canadian islands, Middle Sister and North Harbour. Further, population declines documented over several decades, along with the limited geographic range and insular nature of the Lake Erie Watersnake population, indicated that without the Act's protection, further range contraction was possible.

Since the time of listing, Lake Erie Watersnakes have naturally recolonized Green Island, a small island close to South Bass Island, and a viable population of adult watersnakes has persisted there for 6 years after an absence of 10 or more years (King and Stanford 2009, p. 7; King 2002, p. 4). This natural recolonization demonstrates the importance of maintaining multiple subpopulations of the Lake Erie Watersnake on as many islands as possible, to provide source populations for recolonization, should a stochastic event occur that eliminates all or a significant portion of the population on another island.

Lake Erie Watersnakes were known from West Sister Island based on specimens collected there in 1938 and 1939 but were not collected during repeated searches in the 1980s and 1990s (King *et al.* 2006a, p. 86). While it is not known why Lake Erie Watersnakes disappeared from West Sister Island, it is the most isolated of the U.S. islands, located approximately 13.7 km (8.5 mi) from the mainland and approximately 20.9 km (13.0 mi) from

the nearest island. Three intensive snake surveys since the time of listing have documented two adult female watersnakes on West Sister Island, one in 2002 and one in 2008, though it is unclear if these individuals were members of a permanent resident population, or transient individuals that swam or drifted to the island (King and Stanford 2009, p. 9). King and Stanford (2009, p. 9) conclude that "Lake Erie Watersnakes remain exceedingly rare or absent from West Sister Island."

A main portion of the 2003 Recovery Plan's strategy was to ensure the persistence of multiple subpopulations of the Lake Erie Watersnake on each of the large islands, as well as the small islands on which the watersnake was already present. The presence of multiple population centers helps to protect against stochastic events, such as storms, severe winters, or fire. If entire subpopulations are lost from a catastrophic event, the presence of other subpopulations provides the opportunity for individuals to recolonize the disturbed area. The chance that the species will persist over time increases with the presence of additional subpopulations. Further, the maintenance of multiple subpopulations ensures that genetic diversity that may exist across the range is maintained. The Service and our partners have demonstrated over the past 8 years that Lake Erie Watersnakes have met the population persistence criterion in the Recovery Plan (Service 2003a, pp. 28-29), including the portion of the criterion requiring a specific adult Lake Erie Watersnake population estimate on each of the four large islands, and persistence of Lake Erie Watersnakes on the small islands (Rattlesnake, Sugar, Gibraltar, Ballast, and Green) throughout this same period. Further, annual surveys have documented range expansion of the Lake Erie Watersnake within its historical range since the time of listing, including the recolonization of Green Island. Coupled, these data indicate that the population of Lake Erie Watersnakes is secure across its range and is likely to persist into the foreseeable future, even if the protections of the Act are removed (see Factor D).

Summary of Factor A: Individuals of the Lake Erie Watersnake face a low amount of residual threat from habitat destruction or modification due to development within the Lake Erie islands within the foreseeable future, though the watersnake population has proven resilient to much of the development that has occurred since listing. Summer and hibernation habitat sufficient to support approximately 50 percent of the adult Lake Erie Watersnake recovery population has been protected in perpetuity. Impacts to summer shoreline and foraging habitat will still be regulated by the Corps, and the Service will provide comments to avoid and minimize impacts to Lake Erie Watersnake under the authority of the Fish and Wildlife Coordination Act. Impacts to hibernation habitat will directly affect individual watersnakes if the impacts occur during the hibernation season, however, existing standardized voluntary guidelines to limit winter excavation have been and will continue to be widely distributed to address those impacts. The Lake Erie Watersnake has recolonized a portion of its historic range, its adult populations have shown conclusive growth, and the recovery criteria for island-specific and overall adult population size have been substantially exceeded for the past eight years. Therefore, we determine that the present or threatened destruction, modification, or curtailment of its habitat or range, is not currently causing, or likely to cause in the foreseeable future, the subspecies to be threatened or endangered.

B. Overutilization for Commercial, Recreational, Scientific, or Education Purposes

We know of no recreational, commercial, or educational overutilization of the Lake Erie Watersnake. Lake Erie Watersnakes are not currently a collected or sought-after species, and no recreational or commercial collection of this subspecies has been documented to date. The historical collection of Lake Erie Watersnakes for scientific purposes is well-documented in the final listing rule (64 FR 47126; August 30, 1999). However, since 1966, formal research on wild animals has been regulated by the U.S. Department of Agriculture, Animal and Plant Health Inspection Services, Animal Care Division, under the Animal Welfare Act, as amended (7 U.S.C. 2131-2159). Further, institutions conducting research using live vertebrate animals and receiving funding from the Public Health Service require approval of research proposals by the Institutional Animal Care and Use Committee. This oversight will help to ensure that any scientific collection will not result in overutilization of the species, to the point that population-level effects are likely to occur. Therefore, we do not believe overutilization to be a current threat to the species, nor likely to be in the foreseeable future.

C. Disease or Predation

At the time of listing, neither disease nor predation was implicated in the decline of Lake Erie Watersnakes. We currently have no data indicating that disease is a threat to the Lake Erie Watersnake. Predators of the Lake Erie Watersnake include a number of species native to the islands, specifically herring gull (*Larus argentatus*), great blue heron (*Ardea herodias*), robin (*Turdus migratorius*), raccoon (*Procyon lotor*), red fox (*Vulpes vulpes*), blue racer (*Coluber constrictor*), and mink (*Mustela vison*) (Camin and Ehrlich 1958, p. 510; Goldman 1971, p. 197; King 1986, p 769; King 1987, p. 242, 250; King 1989. p. 87; Stanford 2009, pers. comm.). We anticipate that other birds, predatory fish, and mammals likely prey on Lake Erie Watersnakes, particularly neonate and immature snakes. Predation of individual Lake Erie Watersnakes clearly is occurring, however all of these predators are native to the islands and the snake's population has persisted in the face of such predation both historically and currently. As the Lake Erie Watersnake population has shown steady increases despite no observed change in predation pressure since the time of listing, we determine that mortality due to predation is not a substantial threat to the subspecies now, nor will it be within the foreseeable future.

D. The Inadequacy of Existing Regulatory Mechanisms

The 1999 final listing rule (64 FR 47126) describes various status designations of the Lake Erie Watersnake at State, Provincial, and Federal Canadian levels , but concluded that "regulatory mechanisms are inadequate because of the small number of water snakes in preserves and the vulnerability from lack of regulatory protection outside of preserves." As described above in Factor A, a substantial amount of Lake Erie Watersnake habitat has been protected since 1999 by management agreements, conservation easements, or deed restrictions. Protected habitat includes 18.03 km (11.27 mi) of summer habitat and 1.270 km^2 (313.88 ac) of hibernation habitat within 69 m (226 ft) of shore (Table 2). This amount of habitat is sufficient to support approximately 50 percent of the recovered population goal of 5,555 adult Lake Erie Watersnakes, and is distributed throughout the U.S. range of the subspecies.

In addition to the protected habitat, since the time of listing a substantial portion of additional island habitat has

been acquired by the Ohio Department of Natural Resources. These lands include 0.5 km² (123 ac) of Middle Bass Island and 2.4 km² (593 ac) of North Bass Island. The portions of these islands within 69 m (226 ft) of shore are included as protected habitat, but the remainder of these properties may also provide habitat for the 25 percent of Lake Erie Watersnakes that hibernate greater than 69 m (226 ft) inland. Middle Bass Island State Park is dedicated to boating, camping, and recreation, while North Bass Island will remain primarily natural (ODNR 2004, p.1).

Further, since the time of listing, the Lake Erie Islands Chapter of the Black Swamp Conservancy, a non-profit land conservancy, was established and is acquiring conservation easements on island properties. All of their properties within 69 m (226 ft) of shore are included as protected habitat, however an additional 6 acres (0.02 km²) of land may also provide habitat for the 25 percent of Lake Erie Watersnakes that hibernate greater than 69 m (226 ft) inland. This habitat will remain in a natural state for the foreseeable future.

The Cleveland Museum of Natural History maintains multiple preserve properties on Kelleys Island. All of their properties within 69 m (226 ft) of shore are included as protected habitat, however an additional 99 acres (0.4 km²) of land may also provide habitat for the 25 percent of Lake Erie Watersnakes that hibernate greater than 69 m (226 ft) inland. This habitat will remain in a natural state for the foreseeable future.

As discussed under Factor A above, since the Lake Erie Watersnake was listed in 1999, destruction and modification of watersnake summer habitat has been addressed under section 7 of the Act through the Corps section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act authority. These laws provide the Service the opportunity to review and comment on all projects affecting Lake Erie Watersnake foraging habitat, and many projects affecting shoreline habitat. Under these authorities, the Service has consistently recommended installation of rip-rap erosion control structures and crib docks in lieu of vertical concrete or sheet steel. This substantially reduced shoreline habitat degradation and resulted in the creation of artificial shoreline habitat for Lake Erie Watersnakes on many islands. We anticipate that similar projects impacting the islands' shorelines and the Lake Erie Watersnake's summer habitat will continue into the foreseeable future. As noted above, the vast majority of these projects are regulated by section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act, and as such, the Service will still have the opportunity to review and comment on these projects via the Corps' Public Notice process, even if the watersnake is delisted. The Service plans to continue recommending rock structures as opposed to vertical structures on these types of projects, under the authority of the Fish and Wildlife Coordination Act. This regulatory mechanism will remain in place into the foreseeable future, allowing the Service to maintain some oversight and input relative to the condition of island shorelines for the Lake Erie Watersnake.

Currently, the Lake Erie Watersnake is listed as a State endangered species under the Ohio Revised Code 1531.25. State endangered status is defined as: "A native species or subspecies threatened with extirpation from the state. The danger may result from one or more causes, such as habitat loss, pollution, predation, interspecific competition, or disease" (ODNR 2008, p. 1). Coordination with ODNR Division of Wildlife indicates that the State is supportive of the Service's proposal to delist the Lake Erie Watersnake as they believe that "the snake population appears secure and growing throughout its range," and, "[t]he snake warrants removal from Federal protection" (ODNR 2009, p. 1). ODNR Division of Wildlife has proposed that, upon Federal delisting, the Lake Erie Watersnake would be reclassified to State threatened status, and is likely to remain as such for the foreseeable future (ODNR 2009, p.1). State threatened status "affords a heightened perception of importance and conservation need by the public," and "provides a mechanism for filing criminal charges against people who are responsible for direct mortality" (ODNR 2009, p. 1). Therefore, State take prohibitions reducing the threat from intentional human persecution will still exist if the Lake Erie Watersnake is Federally delisted.

In summary, substantial protected habitat and permanently conserved natural habitat on the U.S. western Lake Erie islands have been established since the time of listing. These areas are sufficient to support approximately 50 percent of the recovery population goal of 5,555 adult Lake Erie Watersnakes. Some jurisdiction over impacts to Lake Erie Watersnake summer habitat will be maintained post-delisting via the Corps section 404 and section 10 authorities. Further, the proposed State reclassification of the Lake Erie Watersnake to a threatened designation will maintain the existing prohibition on intentional mortality of watersnakes and will provide a mechanism for filing criminal charges should intentional direct mortality occur. We have determined that tese regulatory mechanisms and cooperative agreements are sufficient to ensure the persistence of Lake Erie Watersnakes in the foreseeable future, and therefore Lake Erie Watersnakes will not be threatened by the inadequacy of existing regulatory mechanisms post-delisting.

E.Other Natural or Manmade Factors Affecting Its Continued Existence

Human Persecution and Other Human-Induced Mortality

As indicated in the final listing rule for the Lake Erie Watersnake (64 FR 47131; August 30, 1999), "persecution by humans is the most significant and well documented factor in the decline of Lake Erie Watersnakes." Therefore, the recovery strategy for the watersnake focused heavily on public outreach and education in an attempt to change the negative perception and hostile behavior of some island residents and visitors towards the watersnake. As described in detail in **Recovery** above, public opinion surveys were conducted to gauge island landowner perception of the Lake Erie Watersnake, and past, current, and likely future behavior towards the snake (Olive 2008, Wilkinson 2008).

Generally, the survey results indicate that Federal, State, and non-governmental organizations' outreach and education campaigns are reaching the vast majority of island residents, and are helping to increase their access to information about the watersnake (Wilkinson 2008, p. 5). While it is apparent that not all residents feel positively toward the snake, it is very notable that, despite human persecution being the most significant factor in the historical decline of the Lake Erie Watersnake, only about 4 percent of respondents indicated they had knowingly killed a watersnake since the time of listing, and only about 14 percent of respondents said they would knowingly kill a watersnake if it was no longer protected by State or Federal laws (Wilkinson 2008, p. 6). Of those Middle Bass Island residents interviewed by Olive (2008, pp. 112-113, 153), 7 percent admitted to killing a snake and 18 percent admitted they might kill a snake while it is listed. We interpret these responses to indicate that, while individual watersnakes still face some human persecution, the vast majority of islanders would not resort to

lethal means if they encountered watersnakes on their property.

Despite the admitted intentional mortality documented by both Wilkinson (2008, p. 6) and Olive (2008, pp. 112-113, 153) adult Lake Erie Watersnake populations have increased substantially since the time of listing, both across the U.S. range and on each large island (King and Stanford 2010, p. 11; King and Stanford 2009, pp. 6-7). This indicates that the adult Lake Erie Watersnake population can tolerate some degree of intentional mortality of individual snakes and still persist at a recovery level.

Public opinion of the Lake Erie Watersnake varies widely among those who support it, those that who have no opinion, and those that dislike or fear the watersnake specifically, or snakes in general. Outreach efforts have reached nearly all island residents, increasing access to information about the Lake Erie Watersnake, including non-lethal ways to address nuisance snakes. Opinion surveys indicate that most people do not now, and will not in the future, kill Lake Erie Watersnakes, however many people indicate that the sheer number of snakes along the shoreline has become a nuisance, and this may contribute to negative feelings towards the snake. As Lake Erie Watersnake numbers have rebounded, and a significant amount of habitat has now been permanently protected to support its populations, the Lake Erie Watersnake population can withstand a limited amount of intentional mortality. While the threat of intentional mortality likely can never be completely eliminated, results of public opinion surveys indicate that the amount of mortality anticipated from intentional human persecution on its own and with other residual threats is not likely to cause the subspecies to become threatened or endangered again within the foreseeable future.

Continued outreach regarding the Lake Erie Watersnake after delisting will be important in ensuring that island landowners and visitors maintain access to information about the biology of the snake, its conservation status, and its role in the ecosystem. Following delisting, outreach will continue to focus on changing the negative perceptions and hostile behavior of some island residents and visitors towards the watersnake. Outreach activities will continue through various partners, focusing on establishing permanent informational displays at specific island locations. For example, an Ohio Environmental Education Grant was recently awarded to the Lake Erie Islands Nature and Wildlife Center and Lake Erie Islands Historical Society to design interpretive posters and a permanent display that specifically address the Lake Erie watersnake, its current status, and conservation needs (Stanford 2009, pers. comm.). The display will be housed at the Lake Erie Islands Nature and Wildlife Center on South Bass Island while the posters will be made available to local organizations and school teachers and will promote consistent education among a variety of audiences and locations (Stanford 2009, pers. comm.). The permanent display at the Lake Erie Islands Nature and Wildlife Center will provide education for the entire island community, as well as the estimated 5,000-10,000 visitors anticipated per year (Stanford 2009, pers. comm.). This display will explain the current Lake Erie Watersnake legal status and the protective guidelines, which can be updated as needed if the snake is delisted (Stanford 2009, pers. comm.). Similarly, a permanent display on the Lake Erie Watersnake is currently being developed at ODNR's Aquatic Visitor's Center on South Bass Island. Additional signage or displays about the Lake Erie Watersnake are planned for ODNR's Middle Bass Island State Park (Service 2008, p. 5) and the Scheef East Point Nature Preserve on South Bass Island (ODNR 2007, pp. 6, 9).

In addition to intentional human persecution, several sources of accidental human-induced mortality were examined to determine to what degree they contribute to overall mortality of Lake Erie Watersnakes, and if they are a threat to the population. These include mortality from hook and line fishing, roadkill mortality, contaminants, and the interaction between Lake Erie Watersnakes and invasive species. These potential threats are discussed in detail under **Recovery,** above. Based on recent research, accidental human-induced mortality occurring from boating, fishing, and roadkill events does not pose a threat to the adult Lake Erie Watersnake population (Brown and Weatherhead 1999, Stanford 2004, King 2007). Further, invasive species and contaminants do not threaten the adult Lake Erie Watersnake population (Bishop and Rouse 2006, King *et al.* 2006b, Fernie *et al.* 2008) now or in the foreseeable future.

However, one new potential threat to Lake Erie Watersnakes has emerged. In May 2008 erosion control blankets were placed over an excavated area on Gibraltar Island, a small Lake Erie island. Within three days, 25 adult Lake Erie Watersnakes became entangled in the erosion control blankets that were placed over approximately 1347 m^2 (0.33 ac) (Stanford 2008, pers. comm.). The erosion control blankets were single net, filled with straw, and photodegradable within 45 days (Stanford 2008, pers. comm.). Entanglement occurred on the first warm days of the summer and we assume that many snakes were emerging to bask, forage, and mate. When the entangled snakes were discovered, they were cut from the blankets; however 14 adult male Lake Erie Watersnakes died (Stanford 2008, pers. comm.). Mortality was thought to be due to suffocation or sun exposure, though necropsies were not conducted. Upon discovery of the snakes, all of the erosion mesh was immediately removed (Stanford 2008, pers. comm.). Since this event, when consulting on projects on the islands, the Service has requested that erosion control blankets not be used (for example, see Service 2008, p. 2). If this proposal is finalized and the species is delisted, we will continue to include this recommendation under the authority of the Fish and Wildlife Coordination Act when reviewing Federal activities on the islands. Additionally, we have incorporated this recommendation into the revised Lake Erie Watersnake Management Guidelines for Construction, Development, and Land Management Activities (Service 2009, p. 2), which will be widely distributed, as described under Factor A above. We believe that through these mechanisms, entanglement in erosion control blankets or similar materials will not pose a substantial threat to the Lake Erie Watersnake population.

Small Population Size

As noted in the listing document (64 FR 47126; August 30, 1999), all of the known threats were exacerbated by the small population size and the insular distribution of Lake Erie Watersnakes. According to the listing document, "the current low population densities and insular distribution of Lake Erie Watersnake make them vulnerable to extinction or extirpation from catastrophic events, demographic variation, negative genetic effects, and environmental stresses such as habitat destruction and extermination" (64 FR 47126; August 30, 1999). Since the time of listing, the adult Lake Erie Watersnake population has increased substantially. Annual adult Lake Erie Watersnake population censuses and estimates indicate that the population is growing by approximately 6 percent per year, and that the current snake population far outnumbers the goal of 5,555 adult Lake Erie Watersnakes required for the population to be

recovered (King and Stanford 2009, pp. 6-7; Service 2003a, pp. 28-29, 33).

King and Stanford (2009, pp. 5-8) recently analyzed Lake Erie Watersnake survey data from the period 1996-2008, and used Program MARK to model adult survival, and used Jolly-Seber population estimates to estimate sex ratios in adult Lake Erie Watersnakes. The generated estimates for adult sex ratio (1.6 male: 1 female) and adult survival (0.70) proved to be different than the sex ratio and adult survival rates used in setting the overall Population Persistence criterion of the 2003 Lake Erie Watersnake Recovery Plan at 5,555 adult Lake Erie Watersnakes. Incorporating the new adult sex ratio and adult survival estimates into the formula used in the Recovery Plan to generate the adult Lake Erie Watersnake population goal (Service 2003a, p. 31) yielded a revised population goal of 6,100 adult Lake Erie Watersnakes (King and Stanford 2009, p. 8). King and Stanford (2009, p. 8) note that, "the estimated adult Lake Erie Watersnake population size exceeds this value [6,100] for all years from 2002-2008." Further, King and Stanford (2009, p.8) caution that the adult population goals "are based on a series of approximations...As a consequence, such estimates are best viewed as "educated guesses" that may change as more information is obtained." Irrespective of which adult population goal is used, 5,555 as outlined in the Recovery Plan (Service 2003a, p. 28) or 6,100 as recently recalculated using more current information (King and Stanford 2009, p. 8), the adult Lake Erie Watersnake population has met and exceeded both of these goals for seven consecutive years (2002-2008) (King and Stanford 2009, p. 22). Therefore we no longer find that low population numbers increase the severity of any potential threats.

Further, the presence of multiple subpopulations distributed throughout the range of the subspecies provides assurance that genetic diversity is being maintained, and provides multiple source populations should one subpopulation be eliminated due to a catastrophic event. Because Lake Erie Watersnakes are an island-dwelling subspecies, and their range is naturally restricted to a series of relatively small islands in western Lake Erie, it is likely that they will always have a population size that may be considered small relative to species with a much larger range. However, analysis of Lake Erie Watersnake population size, as described in the Recovery Plan (Service 2003a) indicates that a census population size of 5,555 adult watersnakes constitutes a viable, persistent population. Therefore, we no longer find that the insular distribution of the Lake Erie Watersnake increases the severity of any potential threats.

Climate Change

Global climate change due to trapping of greenhouse gases, particularly carbon dioxide, within the atmosphere is widely predicted by scientists all over the world (IPCC 2007, p. 9). Within the Great Lakes region and Ohio specifically, climate change is expected to bring increased temperatures, increased but altered distribution patterns of precipitation, and greater intensity of extreme weather events including drought, storms, floods, and heat waves (Karl *et al.* 2009, p. 117; Kling *et al.* 2003, pp. 17-18). Winters will be of shorter duration and warmer temperatures and snow melt will occur earlier (Kling *et al.* 2003, pp. 17-18). These projected changes in seasonal temperature patterns may cause Lake Erie Watersnakes to hibernate for shorter periods of time, to seek cover more frequently during the active season to escape extreme weather events, and to forage more frequently than they do now to compensate for an extended active season. It is unlikely that these potential behavioral changes brought on by warmer temperatures would constitute a threat to the population.

Warmer temperatures and decreased ice cover across the Great Lakes region predicted by multiple models could result in warmer water temperatures and water levels between 0.3-0.6 m (1-2 ft) below current levels in Lake Erie (Karl *et al.* 2009, pp. 119, 122; Kling *et al.* 2003, pp. 23-24). Decreases in Lake Erie water levels, which define the boundaries of the western Lake Erie islands, can lead to increases in the area of the island exposed, expansion or loss of coastal wetland habitat (depending on elevation and topography), changes in extent or composition of island shoreline habitat, and changes in erosion and accretion patterns. Over all, lower water levels will likely create additional linear footage of island shorelines within the western Lake Erie basin, potentially expanding Lake Erie Watersnake summer terrestrial habitat areas. Portions of former foraging habitat may dry, requiring watersnakes to seek out additional foraging territories. Water depth decreases of 0.3 to 0.6 m (1 to 2 ft) are unlikely to disturb large portions of Lake Erie Watersnake foraging habitat. As noted previously, Lake Erie Watersnakes' diets are composed primarily of round goby, which are plentiful in the warm waters of the western Lake Erie island region, and would likely remain plentiful despite potential effects from climate change. It is unlikely that lower water levels would significantly change Lake Erie Watersnake behavior, or represent a threat to the population.

Climate change projections for Lake Erie indicate that increases in water temperature during the summer may result in lower dissolved oxygen, and prolonged stratification of lake water, resulting in an increase in the potential for dead-zones to occur or expand across time and space (Karl *et al.* 2009, p. 122; Kling *et al.* 2003, p. 22). However, the western Lake Erie basin is generally shallow, with an average depth of 7.4 m (24 ft), and stratification is rare here, and brief when it does occur (USEPA and Environment Canada 2008, p. 18), and therefore we do not anticipate a threat to the population from this projected change. However, low dissolved oxygen could also result in more easily mobilized mercury and other contaminants that exist in Lake Erie sediments, and introduction of increased contaminant loads into the food chain (Karl *et al.* 2009, p. 122). It is possible that additional contaminant loads could result in physiological or reproductive impacts to Lake Erie Watersnakes, but what the effective concentrations of these contaminants are is unknown. As discussed above, contaminants have been detected in Lake Erie Watersnakes in relatively high levels, but have not been documented to cause adverse effects; therefore we do not anticipate that a potential increase in contaminant mobilization within the waters of Lake Erie due to warming water temperatures poses a threat to Lake Erie Watersnakes.

Warmer lake waters are anticipated to result in coldwater habitat being eliminated or shifting north in some areas, potentially changing the fish communities in these areas (Karl *et al.* 2009, p. 122; Kling *et al.* 2003, pp. 53-54). However, the western basin of Lake Erie is composed of warm water habitat already (USEPA and Environment Canada 2008, p. 18) and is too shallow to support coldwater habitat, therefore we do not anticipate shifts in fish species composition within the western Lake Erie basin due to climate change, and therefore no threat to the Lake Erie Watersnake is anticipated.

At this time, we do not have sufficient information to document that climate change poses a significant threat to the continued existence of the Lake Erie Watersnake.

Summary of Factor E: Intentional human-induced mortality is a residual threat to the Lake Erie Watersnake,

however Lake Erie Watersnake numbers have rebounded and a significant amount of habitat has now been permanently protected to support Lake Erie Watersnake populations, and the Service believes that the Lake Erie Watersnake population can withstand a limited amount of intentional mortality and still maintain recovery-level population size. While the threat of intentional mortality likely can never be completely eliminated, results of public opinion surveys indicate that the amount of mortality anticipated from intentional human persecution on its own and with other residual threats is not likely to cause the subspecies to become threatened or endangered again within the foreseeable future. Unintentional human-induced mortality, such as occurs from road-kill, hook and line fishing, contaminants, and impacts of invasive species, has been researched throughout the recovery period and has not been documented to cause take in levels sufficient to impact the adult Lake Erie Watersnake population. Unintentional mortality through entanglement in erosion control fabrics, though rare, will be addressed through continued outreach and through coordination with the Corps on projects that impact Lake Erie Watersnake summer habitat. Lake Erie Watersnake persistence is no longer threatened by small population size or limited distribution, as they have substantially increased in number and expanded in range since the time of listing, and protected habitat sufficient to support 50 percent of the recovery population is distributed across all of the large islands. Finally, we have assessed the potential for climate change to impact the Lake Erie Watersnake based on projected habitat changes in Great Lakes-regional and Ohio models, and have determined that we do not have sufficient information to document that climate change poses a significant threat to the continued existence of the Lake Erie Watersnake. Therefore, we find that other natural or man-made factors, coupled with any other residual threats are not likely to cause the subspecies to become threatened or endangered again within the foreseeable future.

Summary of Threats

As demonstrated in our **Summary of Factors Affecting the Species**, threats to the Lake Erie Watersnake have been abated or sufficiently minimized over the U.S. range of the subspecies. Recovery actions and a reduction or abatement of threats have lead to demonstrated population growth at multiple sites, increasing population estimates, range expansion within the historical range, proof of resiliency of the Lake Erie Watersnake to some habitat modification, and protection of a significant amount of summer and hibernation habitat throughout the range.

The biological principles under which we evaluate the rangewide population status of the Lake Erie Watersnake relative to its long-term conservation are representation, redundancy, and resiliency (Groves, *et al.* 2003, pp. 30-32). At the time of listing, the Lake Erie Watersnake population had declined substantially from historical numbers and its range had contracted due to extirpation from several U.S. and Canadian islands. Since listing, population numbers have rebounded, real population growth at multiple sites has been documented, and the range has expanded to include multiple stable or increasing subpopulations across most of its historical range (West Sister Island is the only U.S. exception, as discussed in Factor A above) (King and Stanford 2009, pp. 6-9). Thus, there is adequate representation (occupancy of representative habitats formerly occupied by the Lake Erie Watersnake across its range) and redundancy (distribution of populations in a pattern that offsets unforeseen losses across a portion of the range) to support the long-term persistence of the Lake Erie Watersnake.

The Lake Erie Watersnake has demonstrated resilience and behavioral plasticity to both ecological and human-induced changes in its environment in the recent past. As described above, the Lake Erie Watersnake has made a nearly complete dietary shift since the invasion of the round goby in the early 2000's, indicating flexibility in prey selection (King *et al.* 2006b, p. 110). We now know that crib docks and armored shorelines provide valuable Lake Erie Watersnake summer habitat and that the Lake Erie Watersnake can persist in stable numbers in human-dominated island landscapes, as long as rocky or vegetated shorelines are present. Further, we have documented multiple situations where Lake Erie Watersnakes have been able to identify and successfully use new hibernation sites when historical hibernation sites are destroyed or unavailable, indicating that the Lake Erie Watersnake is more resilient to certain types of habitat modification than was previously known. The Lake Erie Watersnake has also demonstrated its ability to naturally re-colonize historical habitat after an absence of many years. Thus, despite any residual threats to individual watersnakes, we find the Lake Erie Watersnake has sufficient resiliency to persist within the foreseeable future.

Intensive adult Lake Erie Watersnake censuses and subsequent analysis of the census data over the past 10 years have demonstrated a growing population, range expansion, and successful reproduction over multiple generations (King and Stanford 2009, pp. 6-7, 9). There is no evidence of recent extirpations of subpopulations, nor of a population sink. As previously described, habitat destruction and modification are not thought to be significant threats to the population now or within the foreseeable future (see Factor A above).

Recovery efforts have provided increased attention and focus on the Lake Erie Watersnake and the habitat upon which it depends. Numerous conservation actions have been implemented by government agencies, universities, and conservation groups. Most notably, these include intensive research and population monitoring of Lake Erie Watersnakes by NIU and other partners, and land purchase and conservation on many islands within the range of the subspecies by ODNR, LEIC-BSC, Western Reserve Land Conservancy, and Put-in-Bay Township Park District.

In summary, all of the past, existing, or potential future threats to the Lake Erie Watersnake, either alone or in combination, have either been eliminated or largely abated throughout all of its range. The major factors in listing the Lake Erie Watersnake were human persecution and habitat destruction and modification. These threats have largely been abated as evidenced by the substantial recovery of the snake. Therefore, we have determined that the Lake Erie Watersnake is no longer in danger of extinction or likely to become so throughout all of its range in the foreseeable future.

Significant Portion of the Range Analysis

Having determined that the Lake Erie Watersnake is not in danger of extinction or likely to become so in the foreseeable future throughout all of its range, we must next consider whether the subspecies is in danger of extinction or is likely to become so in any significant portion of its range.

A portion of a species' range is significant if it is part of the current range of the species (species used here is as defined in the Act, to include species, subspecies, or DPS) and if it is important to the conservation of the species because it contributes meaningfully to the representation,

resiliency, or redundancy of the species. The contribution must be at a level such that its loss would result in a decrease in the ability to conserve the species.

Applying the definition described above for determining whether a species is endangered or threatened in a significant portion of its range, we first addressed whether any portions of the range of the Lake Erie Watersnake warranted further consideration. As described in Factor A and Factor E above, some threats to the species will remain post-delisting, primarily loss of hibernation habitat during the winter hibernation season and intentional human persecution. These threats exist across the range of the species, and are not concentrated in any one area. We concluded, however, that these threats were not substantial enough to pose a threat to the viability of the subspecies within the DPS. Therefore, based on the discussion of the threats above, we do not foresee the loss or destruction of any portions of the subspecies' range such that our ability to conserve the subspecies would be decreased. Therefore, we find that the Lake Erie Watersnake is not in danger of extinction and is not likely to become endangered in the foreseeable future throughout all or a significant portion of its range.

Summary

The Service has considered the status of the Lake Erie Watersnake relative to the recovery criteria, which looked in general at population trends and status, and we have completed the five-factor analysis, and on all counts we have determined that this subspecies no longer meets the definition of threatened or endangered throughout all or any significant portion of its range. Thus, we propose to remove the Lake Erie Watersnake from the List due to recovery.

Effects of the Proposed Rule

If made final, this rule would revise 50 CFR 17.11 (h) to remove the Lake Erie Watersnake from the List. The prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, would no longer apply to this species. Federal agencies would no longer be required to consult with us if any action they authorize, fund, or carry out may affect the Lake Erie Watersnake.

Critical Habitat Prudency Determination

In this proposed rule to delist the Lake Erie Watersnake, we have determined that it is no longer in danger of extinction or likely to become so throughout all or a significant portion of its range. The major factors for listing the Lake Erie Watersnake were human persecution and habitat and range destruction, modification or curtailment and these threats have been abated. In particular, as discussed above in "Summary of Factors Affecting the Species", we have determined that the Lake Erie Watersnake is more adaptable to changes in its habitat, able to use more types of habitat than previously thought and will recolonize habitat after a substantial amount of time. Therefore, based on a review of the best available data, we have determined that the present or future habitat destruction, modification or curtailment is no longer a factor leading to threatened or endangered status for the Lake Erie Watersnake. For these reasons, the designation of critical habitat and subsequent regulatory protections of designated critical habitat through section 7 of the Act would not be beneficial to the species. Therefore, we have determined that designation of critical habitat is not prudent. In the event that during the public review and comment period of this proposed rule to delist we receive information that would lead us to determine that the Lake Erie Watersnake should be listed as endangered or threatened, we will reconsider this critical habitat prudency determination.

Post-Delisting Monitoring

Section 4(g)(1) of the Act requires us, in cooperation with the States, to implement a monitoring program for not less than five years for all species that have been recovered and delisted. The purpose of this requirement is to develop a program that detects the failure of any delisted species to sustain itself without the protective measures provided by the Act. If, at any time during the monitoring period, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing.

A draft post-delisting monitoring plan has been developed for the Lake Erie Watersnake, building upon and continuing the research that was conducted during the listing period. In summary, the plan proposes to conduct annual adult Lake Erie Watersnake population censuses, as have occurred throughout the listing period, for a period of 5 years post-delisting. The data collected will be used to generate annual adult Lake Erie Watersnake population estimates for the population as a whole, and for each of the four large islands, using the same methods as used previously (King *et al.* 2006a, pp. 88-91). During years one, three, and five, the collective data will be used to calculate lambda, the population growth rate, as described in King and Stanford (2009, pp. 5-7). Annual reports detailing the population estimates and population growth rates (if applicable) will be submitted to the Service and ODNR upon completion of data analysis by the individuals or groups conducting the census.

Additionally, all areas included as protected habitat will be monitored once per year, in collaboration with partners that manage the protected habitat (for example, ODNR, LEIC-BSC). The monitoring will ensure that the management plans, conservation easements, or other documents are being implemented as agreed, and that Lake Erie Watersnakes or suitable habitat persists on the site. Written documentation of the protected habitat monitoring will be filled in the Service's Ohio Field Office (see FOR FURTHER INFORMATION section).

Public opinion surveys will be conducted during year four of the post-delisting monitoring. These surveys will follow the same protocol and ask similar questions as the survey conducted in 2008, and responses will be compared to determine if and how public opinion of Lake Erie Watersnake may be changing, and if and to what extent human persecution may be impacting the Lake Erie Watersnake population post-delisting.

The post-delisting monitoring plan identifies measurable management thresholds and responses for detecting and reacting to significant changes in Lake Erie Watersnake protected habitat, distribution, and persistence. If declines are detected equaling or exceeding these thresholds, described below, the Service in combination with other post-delisting monitoring participants will investigate causes of these declines, including considerations of habitat changes, substantial human persecution, stochastic events, or any other significant evidence. The result of the investigation will be to determine if the Lake Erie Watersnake warrants expanded monitoring, additional research, additional habitat protection, or resumption of Federal protection under the Act.

The management thresholds for determining how the Service will respond to various monitoring outcomes are as follows:

(1) Post-delisting monitoring indicates that the species remains secure without the Act's protections if all the following are met: (a) The calculated population growth rate is greater than or equal to 1.0 for two out of three sampling

periods, including the last sampling period, (b) the adult population estimates are greater than 5,555 overall, and (c) each of the four large islands maintains the population goals as defined in the recovery plan (Service 2003a, pp. 28-29). Under these circumstances there would be no reason to relist the species, or continue PDM.

(2) Post-delisting monitoring indicates that the species may be less secure than anticipated at the time of delisting, but information does not indicate that the species meets the definition of threatened or endangered if the calculated population growth rate is less than 1.0 for two consecutive sampling periods. Should this situation occur, the Service would look closely at the results of the dietary study, public opinion survey, and implementation of voluntary guidelines to determine if any residual threats or concerns may be contributing to population declines. Variable courses of action may be considered to address any residual or emerging threats. The Service will also consider whether the population may be reaching carrying capacity and these population declines are a result of normalization around carrying capacity. Further, the Service would consider extending the PDM period for the Lake Erie Watersnake to ensure that the population does not meet the definition of threatened or endangered.

(3) Post-delisting monitoring yields substantial information indicating threats are causing a decline in the species' status since delisting, such that listing the species as threatened or endangered may be warranted if the calculated population growth rate is less than 1.0 for three consecutive sampling periods. Should this situation occur the Service would look closely at the results of the dietary study, public opinion survey, and implementation of voluntary guidelines to determine if any residual threats or concerns may be contributing to population declines. Variable courses of action may be considered to address any residual or emerging threats. The Service will also consider whether the population may be reaching carrying capacity and these population declines are a result of normalization around carrying capacity. Further, the Service would consider whether listing the Lake Erie Watersnake as threatened or endangered is warranted.

(4) Post-delisting monitoring documents a decline in the species' probability of persistence, such that the species once again meets the definition of a threatened or endangered species under the Act if the calculated population growth rate is less than 1 for two consecutive sampling periods *and* one of the two following situations occurs: The estimated population falls below the recovery goal of 5,555 adult Lake Erie Watersnakes, *or* one or more of the large island subpopulations fall below the population recovery goal specified in the recovery plan (Service 2003a pp. 28-29), when using the Jolly-Seber method of population estimation (Jolly 1965, Seber 1965).

The Service will complete a final report at the end of the 5–year post-delisting monitoring period, assessing the current status of the Lake Erie Watersnake population. It is the intent of the Service to work with all of our partners towards maintaining the recovered status of the Lake Erie Watersnake.

The draft post-delisting monitoring plan is available at *www.regulations.govwith* this proposed rule OR on the Service's Midwest region web site: *http://www.fws.gov/midwest/endangered*.

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure that our proposed rule is based on scientifically sound data, assumptions, and analyses. We will send peer reviewers copies of this proposed rule immediately following publication in the **Federal Register** and will invite them to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposal to delist the Lake Erie Watersnake. We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Paperwork Reduction Act of 1995

Office of Management and Budget (OMB) regulations at 5 CFR 1320 implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The OMB regulations at 5 CFR 1320.3(c) define a collection of information as the obtaining of information by or for an agency by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, 10 or more persons. Furthermore, 5 CFR 1320.3(c)(4) specifies that "ten or more persons" refers to the persons to whom a collection of information is addressed by the agency within any 12-month period. For purposes of this definition, employees of the Federal government are not included.

This proposed rule and draft post-delisting monitoring plan do not include any new collections of information that require approval by OMB under the Paperwork Reduction Act.

This proposed rule does not include any collections of information that require approval by OMB under the Paperwork Reduction Act. We do not anticipate a need to request data or other information from 10 or more persons during any 12–month period to satisfy monitoring information needs. If it becomes necessary to collect standardized information from 10 or more non-Federal individuals, groups, or organizations per year, we will first obtain information collection approval from OMB.

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with regulations adopted under section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

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 the Department of Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no tribal lands affected by this proposal.

References Cited

A complete list of all references cited in this rule is available on the Internet at *http://www.regulations.gov*, or upon request from the Field Supervisor, Ohio Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Author(s)

The primary authors of this document are the staff members of the Ohio Field Office, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend §17.11 (h) by removing the entry "Snake, Lake Erie water" under "REPTILES" from the List of Endangered and Threatened Wildlife.

Dated: May 17, 2010

Gregory E. Siekaniec

Acting Director, Fish and Wildlife Service

[FR Doc. 2010–12910 Filed 5–28–10; 8:45 am]

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R6-ES-2008-0053] [MO 92210-0-0008-B2]

Endangered and Threatened Wildlife and Plants; 12–month Finding on a Petition to List the White-tailed Prairie Dog as Endangered or Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of a 12–month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service announce a 12–month finding on a petition to list the white-tailed prairie dog (*Cynomys leucurus*) as endangered or threatened under the Endangered Species Act of 1973, as amended. After a review of all available scientific and commercial information, we find that listing the white-tailed prairie dog is not warranted at this time. However, we ask the public to submit to us any new information that becomes available concerning the threats to the white-tailed prairie dog or its habitat at any time.

DATES: The finding announced in this document was made on June 1, 2010.

ADDRESSES: This finding is available on the Internet at *http://www.regulations.gov* at Docket Number FWS-R6-ES-2008-0053. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Utah Field Office, 2369 West Orton Circle, Suite 50, West Valley City, UT 84119. Please submit any new information, materials, comments, or questions concerning this finding to the above street address.

FOR FURTHER INFORMATION CONTACT: Larry Crist, Field Supervisor, Utah Field Office (see **ADDRESSES**); by telephone at 801-975-3330; or by facsimile at 801-975-3331. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Federal Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information that listing the species may be warranted, we make a finding within 12 months of the date of receipt of the petition. In this finding, we will determine that the petitioned action is: (1) Not warranted, (2) warranted, or (3) warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened, and expeditious progress is being made to add or remove qualified species from the Federal Lists of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(C) of the Act requires that we treat a petition for which the requested action is found to be warranted but precluded as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. We must publish these 12–month findings in the **Federal Register**.

Previous Federal Action

On July 15, 2002, we received a petition dated July 11, 2002, from the Center for Native Ecosystems, Forest Guardians, Biodiversity Conservation Alliance, and Terry Tempest Williams, requesting that the white-tailed prairie dog (*Cynomys leucurus*) be listed as endangered or threatened across its entire range. We acknowledged the receipt of the petition in a letter to the petitioners, dated August 27, 2002. In that letter we also stated that higher priority actions precluded addressing the petition immediately, but it would be addressed when funding allowed.

Section 4(b)(3)(B) of the Act requires that for any petition to revise the Lists of Threatened and Endangered Wildlife and Plants, to the maximum extent practicable, within 90 days after receiving the petition, we make a finding as to whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. On November 9, 2004, we announced our 90–day finding (69 FR 64889) that the petition did not present substantial scientific or commercial information indicating that listing may be warranted. On July 12, 2007, in a Director's memorandum, the U.S. Fish and Wildlife Service (Service) announced that we would review the November 9, 2004, finding after questions were raised about the integrity of scientific information used and whether the decision was consistent with the appropriate legal standards. We received notice of a lawsuit from the Center for Native Ecosystems, and three other entities, on November 27, 2007, regarding our not-substantial 90–day finding. We agreed in a stipulated

settlement agreement on February 22, 2008, to submit a notice initiating a 12–month finding for the white-tailed prairie dog to the **Federal Register** on or before May 1, 2008, and to submit a 12–month finding for the white-tailed prairie dog to the **Federal Register** on or before June 1, 2010. Due to the stipulated settlement agreement, the petitioners dismissed the lawsuit on February 26, 2008. This notice constitutes the 12–month finding under the stipulated settlement agreement on the petition to list the white-tailed prairie dog as endangered or threatened.

Species Information

Species Description

White-tailed prairie dogs are between 340 to 370 millimeters (mm) (13.4 to 14.6 inches (in)) in length with a 40- to 65-mm (1.6- to 2.6-in) long tail (Clark *et al.* 1971, p. 1). The tail has a grayish white tip and is white on the terminal half. The coat is generally yellow-tan with distinctive dark brown or black cheek patches that extend above the eye with a lighter black stripe that extends below the eye onto the cheek (Clark *et al.* 1971, p. 1).

Taxonomy

The white-tailed prairie dog is one of five prairie dog species that inhabit western North America (Clark *et al.* 1971, p. 1; Pizzimenti 1975, pp. 62-63). Prairie dogs are in the squirrel family, Sciuridae, and belong to the genus *Cynomys* (Hollister 1916, p. 5). The genus is split into two subgenera; *Leucocrossuromys* includes prairie dogs with white tails and *Cynomys* includes prairie dogs with black tails. White-tailed prairie dogs are included in the subgenus *Leucocrossuromys* along with Utah and Gunnison prairie dogs (Clark *et al.* 1971, p. 1; Pizzimenti 1975, pp. 15-16). Due to this consensus, we determined that the white-tailed prairie dog is a valid taxonomic species and a listable entity under the Act.

Ecology and Life History

White-tailed prairie dogs occur at elevations ranging from 1,150 meters (m) (3,773 feet (ft)) (Flath 1979, p. 63) to 3,200 m (10,500 ft) (Tileston and Lechleitner 1966, p. 295). Unlike the grass-dominated habitats of black-tailed prairie dogs, white-tailed prairie dogs inhabit drier landscapes with shrubland vegetation (Tileston and Lechleitner 1966, p. 295; Clark 1977, pp. 3-5; Collins and Lichvar 1986, pp. 88-91; Gadd 2000, pp. 15-16). Their habitats are generally flat (Collins and Lichvar 1986, p. 92).

Prairie dogs are primarily herbivorous and mainly eat grasses and forbs (Kelso 1939, pp. 7-11). However, they consume other plants seasonally. Prairie dog selection of plants is somewhat dependent on site-specific conditions and seasonality. For example, white-tailed prairie dogs eat sagebrush and saltbush during early spring, grasses in the summer, and seed heads and rabbitbrush flowers in the fall (Kelso 1939, p. 10; Tileston and Lechleitner 1966, p. 302). White-tailed prairie dogs eat the least amount of grass of any prairie dog species and the most saltbush (Kelso 1939, p. 11). White-tailed prairie dogs also eat insects (Stockard 1929, p. 476). Prairie dogs obtain most of their water by eating vegetation and can become water-stressed if sufficient succulent vegetation is unavailable (Seglund *et al.* 2006, p. 7).

White-tailed prairie dogs prefer areas with lower vegetation heights (Collins and Lichvar 1986, p. 92), but they may use dense sagebrush adjacent to grassier areas (Tileston and Lechleitner 1966, p. 314). White-tailed prairie dogs use the dense vegetation within sagebrush habitat to hide from predators (Hoogland 1981, pp. 266-268; Gadd 2000, pp. 24-26), reducing their need to visually search for predators and consequently reducing their need for dense colonies and cohesive social structures. This habitat use differs from black-tailed prairie dogs, who actively work to maintain the grassland vegetation surrounding their burrows for visibility.

White-tailed prairie dogs dig their own burrows. Burrow construction requires deep, well-drained soils. Preferred soils are derived from sandstone or shale and may be clay-loam, silty clay, or sandy loam (Lupis *et al.* 2007, p. 6). Burrows are used throughout the year for hibernation, cover from temperature extremes, predator avoidance, and birthing and raising young (Clark 1977, p. 9; Hoogland 1981, pp. 258-264). Burrow complexes are usually widespread with numerous entrances, tunnels, and chambers. The number of burrows in an area varies greatly from location to location, ranging from 0.12 to 47.75 per hectare (ha) (0.3 to 118 per acre (ac)) with a mean of 0.32 to 6.79 per ha (0.8 to 16.8 per ac) (Tileston and Lechleitner 1966, p. 314; Menkens and Anderson 1989, p. 84; Seglund and Schnurr 2009, p. 94).

For purposes of this finding, a group of burrows is referred to as a colony. A complex is a collection of colonies grouped on the landscape. There is usually a high degree of connectivity between colonies in the same complex.

White-tailed prairie dog colonies have fewer animals per unit area with less obvious borders than black-tailed prairie dog colonies (Tileston and Lechleitner 1966, pp. 297, 314; Hoogland 1981, p. 252). Home range sizes range from 0.2 to 1.9 ha (0.5 to 4.7 ac) (Clark 1977, p. 65; Cooke 1993, p. 23), which are generally larger than black-tailed prairie dog home ranges (Clark 1977, p. 65).

White-tailed prairie dogs can live up to 8 years in captivity but may not live past 4 years in the wild (Pauli *et al.* 2006, p. 18). Prairie dog annual mortality rates average 30 to 60 percent, largely due to disease and predation (Tileston and Lechleitner 1966, p. 305; Clark 1977, pp. 80-81).

Adult sex ratios are approximately one male to two females (Clark 1977, p. 76; Hoogland 2010, pers. comm.). White-tailed prairie dogs can reproduce at 1 year of age, and they have a single litter once a year averaging four to five pups (Bakko and Brown 1967, pp. 110-111). Breeding occurs from late March to mid-April (Tileston and Lechleitner 1966, p. 303). Pups are born in the burrows after a gestation period of approximately 30 days (Tileston and Lechleitner 1966, p. 304), and emerge from the burrow for the first time 4 to 6 weeks after birth (Bakko and Brown 1967, p. 103). They begin to disperse from the colony in June and July when population densities are the highest (Clark 1977, p. 72). Migration is recognized as an important factor to white-tailed prairie dog population dynamics (Clark 1977, p. 80). Plague in this species often results in near extirpation of colonies. Rapid recolonization of some areas post-plague with few or no surviving reproductive adults suggests the species is highly mobile (Seglund *et al.* 2006, p. 10). Dispersal distances of up to 8 kilometers (km) (4.8 miles (mi)) have been observed (Cooke 1993 in Seglund *et al.* 2006, p. 10)

White-tailed prairie dogs have the least cohesive social structure of any prairie dog species. Their social system is organized around family groups or "clans," comprised of several reproductive females, one or two males of reproductive age, and dependent young (Clark 1977, p. 62; Cooke 1993, p. 22). Adult white-tailed prairie dogs spend little time displaying social behavior, and most of their time feeding or in alert postures (Clark 1977, p. 44). Pups spend a large amount of time playing during their first few weeks (Tileston and Lechleitner 1966, p. 300).

White-tailed prairie dog populations exhibit large fluctuations of more than

50 percent from year to year (Menkens and Anderson 1989, p. 345). Population fluctuations are likely due to disease cycles, vegetation quantity and quality, and drought (Seglund and Schnurr 2009, p. 16) (see *Factor A*. Climate Change; *Factor C*. Disease). We do not know the level at which population fluctuations are a natural part of white-tailed prairie dog ecology, or the result of environmental or human-caused threat factors. In many cases, prairie dog colonies persist despite large population fluctuations (see *Factor C*. Disease). We define "persistence" as the long-term continuance of white-tailed prairie dog colonies, at a high enough level to exist in the long-term with minimal management assistance.

White-tailed prairie dogs are diurnal (active during the day) (Tileston and Lechleitner 1966, p. 200). They are active approximately 5 to 7 months per year from early spring to fall and hibernate during late fall and winter (Clark 1977, pp. 59-60; Cooke 1993, p. 11). Time spent hibernating is determined by available food resources (Clark 1977, p. 60). In warm weather, even in mid-winter, white-tailed prairie dogs will feed if grasses are growing (Hollister 1916, p. 6; Goodrich and Buskirk 1998, p. 177). If resources are not sufficient, prairie dogs become inactive and spend more time in their burrows (Harlow and Menkens 1986, p. 795). During periods of high summer temperatures, white-tailed prairie dogs avoid the highest temperatures of midday by foraging in the cooler morning and evening hours (Clark 1977, p. 58).

Distribution and Abundance

The overall species' distribution is mapped as "gross range." The available white-tailed prairie dog literature uses the term "gross range" to describe the outer boundary identifying the overall rangewide distribution of the white-tailed prairie dog (Figure 1). However, not all lands within the species' gross range are occupied or have the potential to be occupied by white-tailed prairie dogs (Seglund *et al.* 2006, p. 100). The predicted range is a subset of the gross range and thus represents a more accurate spatial representation of the potential range of the white-tailed prairie dog (Seglund *et al.* 2006, pp. 16, 110; Seglund and Schnurr 2009, p. 23). Predicted range is defined using habitat characteristics of vegetation, land use, slope, and elevation (Seglund *et al.* 2006, pp. 14-39). Depending on available data, we use gross range, predicted range, or mapped occupied habitat throughout this document to evaluate status and threats to the species. For example, gross range mapping data was available for our use for all States across the species' range. However, the data for the predicted range map (Seglund *et al.* 2006, p. 110; Seglund and Schnurr 2009, p. 23) was only available for the State of Colorado. Information regarding mapped occupied habitat (all areas mapped on Federal lands as occupied by white-tailed prairie dogs since 1985) was available for the State of Utah, but not for any other States.

BILLING CODE 4310–55–S

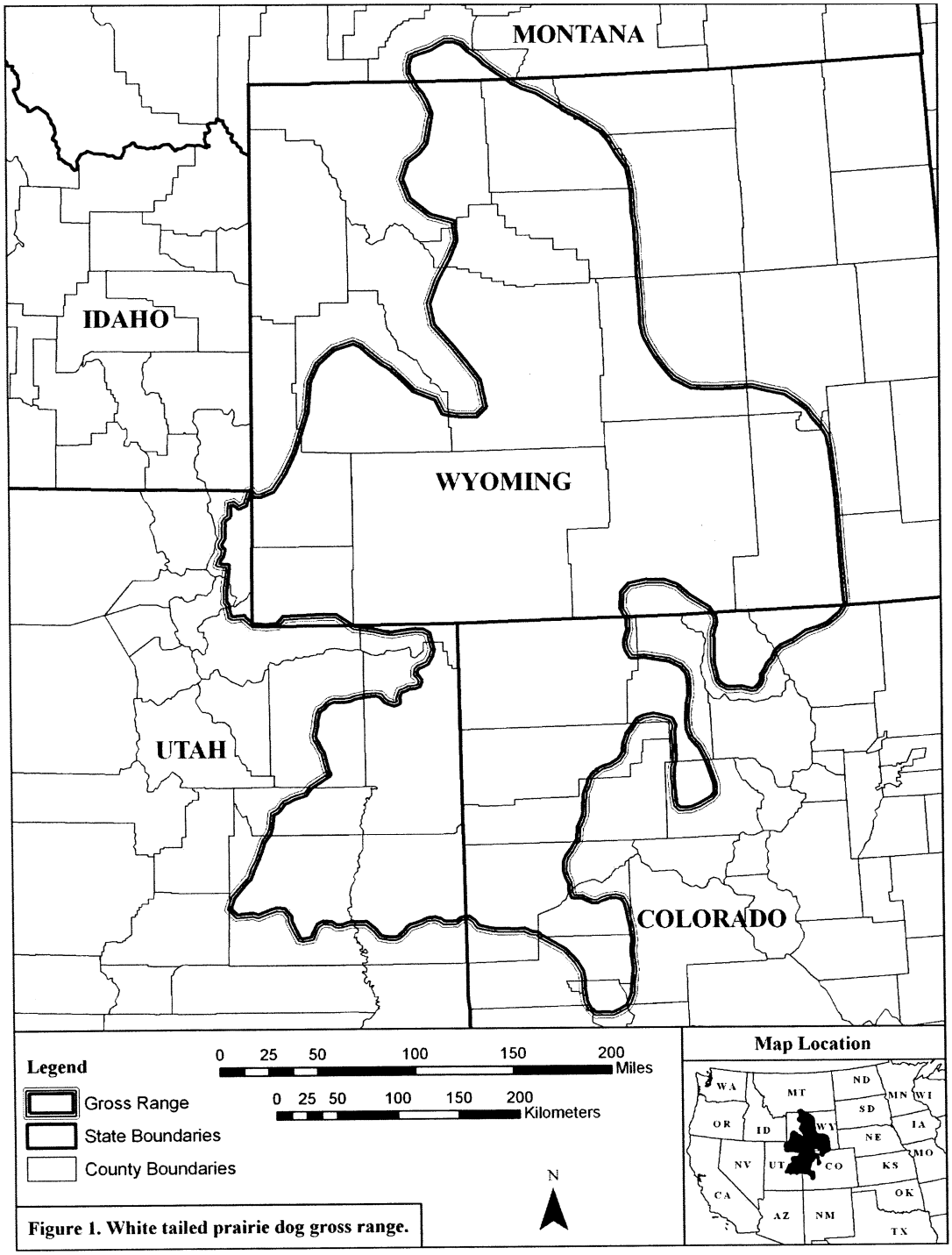


Figure 1. White tailed prairie dog gross range.

BILLING CODE 4310–55–C

The white-tailed prairie dog occurs from a small area in south-central Montana, throughout much of Wyoming, into western Colorado, and northeastern Utah. There are 20,224,801 ha (49,976,572 ac) within the gross range of the white-tailed prairie dog and 13,066,887 ha (32,288,981 ac) within the species' predicted range (Seglund *et al.* 2006, p. 91). Therefore, approximately 65 percent of the gross range has the characteristics necessary to support the white-tailed prairie dog. Wyoming contains the largest amount of white-tailed prairie dog predicted range (75 percent) (Knowles 2002, p. 4). Less than 1 percent of predicted range occurs in Montana (Table 1). The majority of white-tailed prairie dog predicted range (56 percent) occurs on land managed by the Bureau of Land Management (BLM). A significant portion of the predicted range occurs on private land (37 percent). Very little of the predicted range is managed by the Service (0.4 percent), U.S. Forest Service (USFS) (0.5 percent), or National Park Service (NPS) (0.9 percent) (Table 1).

TABLE 1. PERCENT PREDICTED RANGE BY STATE AND LAND MANAGEMENT ENTITY (SEGLUND *et al.* 2006, PP. 91, 98, 100, 104, 109).

	Total Range	Private	BLM	USFS	NPS	USFWS	State	Other
Colorado	11	37	56	< 1	1	< 1	5	< 1
Montana	< * 1	49	44	2	0	0	5	< 1
Utah	13	20	60	< 1	< 1	< 1	11	7
Wyoming	75	33	54	< 1	< 1	< 1	6	6
Total		37	56	< 1	< 1	< 1	5	< 1

* < less than

Historical abundance and distribution are not well documented for white-tailed prairie dogs prior to the 1980s (Pauli *et al.* 2006, p. 13; Seglund *et al.* 2006, p. 11). The distribution of white-tailed prairie dogs has not changed appreciably since historic times (Knowles 2002, pp. 5-6). The only recorded change in distribution is in Montana, where white-tailed prairie dogs were previously captured 40 miles north of currently occupied habitat (Knowles 2002, p. 5). However, abundance declined as a result of past control efforts and plague (Cully 1993, p. 38; Knowles 2002, pp. 1-2) (see *Factor B.* Overutilization and *Factor C.* Disease). We are not able to quantify changes in occupied habitat for the species because mapping did not use standardized methods, and we do not have accurate estimates of historical occupied habitat (Seglund *et al.* 2006, p. 13).

We do not have rangewide population trend information due to a lack of historical population information and inconsistencies in survey methodologies (Seglund *et al.* 2006, pp. 4, 13). Surveys for white-tailed prairie dog distribution and occupancy rates were recently conducted across portions of the species' gross range (Grenier and Filipi 2009, entire; Seglund and Schnurr 2009, p. 27; Wright 2009, entire). While occupancy surveys are intended to determine population trends (Seglund and Schnurr 2009, p. 10), the data are not yet available to provide trend information. In addition, each State used different methods to conduct ground surveys and determine occupancy rates; thus, the results are not comparable. We present State-by-State information below with the caveat that comparing colony occupancy rates across the gross range of the species is not possible.

Colorado

White-tailed prairie dog predicted range includes Moffat, Routt, Rio Blanco, Garfield, Mesa, Delta, Montrose, Eagle, Jackson, Ouray, and Larimer Counties in northwestern Colorado (Seglund *et al.* 2004, p. 133). Approximately 1,246,441 ha (3,104,733 ac) of predicted white-tailed prairie dog habitat occurs in three Individual Population Areas (IPAs): Grand Valley-Uncompahgre IPA, North IPA, and Northwest IPA (Hotze 2010, pp. 9-10). An IPA is an area physically separated from other populations that may face a unique subset of threats (Seglund and Schnurr 2009, p. 1). These population areas are geographically separated from each other but connected to population areas in Utah and Wyoming (Seglund and Schnurr 2009, p. E-5).

Colorado completed Statewide white-tailed prairie dog surveys in 2004 and 2008; occupancy rates were 24.1 and 23.1 percent, respectively, a statistically insignificant difference (Seglund and Schnurr 2009, pp. 27-28). Occupancy rate is the number of randomly selected plots in predicted habitat with prairie dogs, and is not a measure of abundance. We do not have population trend information across the entire predicted range of the species in Colorado. Localized declines and habitat degradation were reported in the Grand Valley-Uncompahgre IPA due largely to urbanization (Seglund and Schnurr 2009, p. 54). Information in the North IPA is restricted to colonies associated with black-footed ferret reintroduction; a historical record of ferrets in this area suggests it once supported abundant populations of prairie dogs (Seglund and Schnurr 2009, p. 58). Only two colonies remain, although they have remained stable for the past 20 years (Seglund and Schnurr 2009, p. 58). Population densities and distribution in the Northwest IPA appear to fluctuate greatly in large part due to the prevalence of plague (Seglund and Schnurr 2009, pp. 63-76).

Montana

White-tailed prairie dogs occur in one population area in Carbon County, along the Montana-Wyoming border (Seglund *et al.* 2006, p. 25). Fifteen colonies were mapped in the 1970s across 312.8 ha (773 ac) (Flath 1979, p. 63). White-tailed prairie dogs were previously reported in north Sage Creek in Carbon County (Hollister 1916, p. 27), and in Yellowstone County just northeast of Carbon County (Kelso 1939, p. 7), but no animals were found in these locations in later surveys (Flath 1979, entire).

Current occupied area of white-tailed prairie dogs in Montana includes 112 ha (277 ac) across 11 colonies; 8 colonies were considered active in 2009 (MFWP 2009a, p. 1). The apparent loss in occupied habitat is likely due to plague and agricultural land conversion (Parks *et al.* 1999 in Knowles 2002, p. 15). We do not have population trend data for the white-tailed prairie dog in Montana.

Utah

White-tailed prairie dogs occur in Rich, Summit, Daggett, Uintah, Duchesne, Carbon, Emery, and Grand Counties (Seglund *et al.* 2004, p. 140) in northern and eastern Utah. In 2002 and 2003, 57,463 ha (141,808 ac) of occupied white-tailed prairie dog habitat were documented, mostly within Uintah and Duchesne Counties (Lupis *et al.* 2007, p. 17). Smaller population areas are found in the Cisco Desert in Emery and Grand Counties (10,869 ha (26,856 ac)), and in Rich County (73 ha (180 ac)) (Lupis *et al.* 2007, p. 15). Surveys did not include private lands; therefore, the amount of occupied habitat is an underestimate. These population areas are mostly disconnected from each other, but connect to population areas in Wyoming and Colorado. Based on surveys conducted in 2008, the white-tailed prairie dog occupancy rate was 46 percent of sampled plots (Wright 2009, p. 5).

We do not have information on long-term population status or trends for white-tailed prairie dogs in Utah. Surveys in black-footed ferret management areas in the Uintah basin recorded fluctuating population levels: increasing densities since the early 1990s, declines in 1999 and 2003, and population recoveries in 2004-2008 (Seglund *et al.* 2006, p. 28; Maxfield 2009, pers. comm.) (see *Factor A.* Climate Change).

Wyoming

White-tailed prairie dogs are found in the Counties of Big Horn, Park, Hot Springs, Natrona, Fremont, Sublette, Sweetwater, Lincoln, Uinta, Carbon, and Albany in northern and southern central Wyoming (Seglund *et al.* 2004, p. 130). Wyoming Fish and Game documented 11,511,356 ha (27,822,847 ac) of potential habitat and 1,170,952 ha (2,893,487 ac) of occupied habitat in 2008 by aerial survey (Grenier and Filipi 2009, p. 5). The majority of these acres are in Albany and Carbon Counties. Habitat in Wyoming is mostly continuous and not split into discrete population areas. Approximately 68 percent of the surveyed areas were estimated to be occupied (Grenier and Filipi 2009, p. 5). This estimate is not a statistically determined "occupancy rate." Occupancy from these aerial surveys cannot be compared with ground surveys from Colorado and Utah, because the observed location of colony boundaries varies between methods, presumably due to the difficulty in measuring colony boundaries from the air (Andelt *et al.* 2005, p. 3). We do not have long-term status or trend information for white-tailed prairie dogs in Wyoming.

Summary of White-Tailed Prairie Dog Population Status

We do not have reliable long-term historical or current white-tailed prairie dog status, trend, or distribution data. White-tailed prairie dog populations are likely below historical levels, though their overall distribution has not substantially changed (Knowles 2002, p. 6). Large acreages of occupied habitat exist across the species' range, particularly in Wyoming. Each State plans to continue occupancy surveying, so more information may be available in the future.

Evaluation of Information Pertaining to the Five Threat Factors

Section 4 of the Act and implementing regulations (50 CFR 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, a species may be determined to be endangered or threatened based on any of the following five factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In making this 12–month finding, information pertaining to the white-tailed prairie dog in relation to the five factors provided in section 4(a)(1) of the Act is discussed below. In making our 12–month finding on the petition we considered and evaluated the best available scientific and commercial information.

Factor A. The present or threatened destruction, modification, or curtailment of the species' habitat or range.

The following potential factors that may affect the habitat or range of the white-tailed prairie dog are discussed in this section, including: (1) Oil and gas exploration and development, (2) oil shale and tar sands development, (3) mineral development, (4) renewable energy development—wind and solar, (5) urbanization, (6) agricultural land conversion, (7) grazing, (8) fire occurrence and suppression, (9) invasive plant species and (10) climate change.

Oil and Gas Exploration and Development

Exploration and development of oil and gas resources is widespread throughout the gross range of the white-tailed prairie dog (Hotze 2010, pp. 11-26). Between 2004 and 2008, exploration of oil and gas in the intermountain west increased substantially because of political and economic incentives (National Petroleum Council 2007, pp. 5-7). The 2005 Energy Policy Act expedited the leasing and permitting process on Federal lands (42 U.S.C. 15801). The global recession of 2008 resulted in decreased energy demand resulting in a reduced rate of energy development. Fossil fuel production is expected to regain and surpass the early 2008 levels in 2010-2030 (Copeland *et al.* 2009, p. 1; Energy Information Administration (EIA) 2009, p. 109).

Energy development includes exploration, drilling, production, and reclamation phases (Tribal Energy and Environmental Information Clearinghouse (TEEIC) 2009, entire), each of which may potentially impact the white-tailed prairie dog or its habitat. During the exploration phase, oil and gas resources are delineated using a variety of technologies, including seismic shot-hole surveys (planting and detonation of underground explosives to produce vibrations that reveal locations of mineral resources) and vibroseis trucks (vehicle with a vibration plate used to survey mineral resources) (TEEIC 2009, p. 6). These activities may result in mortality and the crushing of vegetation along the seismic route, but there are no permanent structures established during the exploration phase. If oil and gas resources are proven, the lessee moves into the drilling phase. During the drilling phase, access roads and well pads are constructed, pipelines are installed, and the infrastructure necessary for the production phase (such as compressor stations) is developed and constructed (TEEIC 2009, p. 9). This phase typically results in longer-term disturbance to white-tailed prairie dog habitat. The production phase includes maintaining the wells and infrastructure as well as continuing the extraction of the oil and gas resources. Wells may be in the production phase for up to 20 to 30 years for gas wells (TEEIC 2009, p. 5) and up to 100 years for oil wells (Connelly *et al.* 2004, p. 7:41). The final phase begins when a well is no longer producing oil or gas because the

resource is depleted. The lessee is responsible for reclaiming the land back to its original condition, or as close to the original condition as possible (BLM 2007a, p. 2; TEEIC 2009, p. 15).

Oil and gas developments are typically configured as point (e.g., well pads, compressors) and line (e.g., roads, pipelines) disturbances across broad areas. The amount of direct habitat loss may encompass 5 to 10 percent of leased areas. However, the extent of disturbance to white-tailed prairie dogs may reach far beyond the direct habitat loss, due to the loss and fragmentation of habitats; the alteration of vegetation resources, which often promotes nonnative invasive plant species; increased noise levels; increased vehicle traffic; and increased human access to previously remote areas (Pauli *et al.* 2006, p. 27; Seglund *et al.* 2006, p. 46; Seglund and Schnurr 2009, p. 126; Wyoming Game and Fish Department (WGFD) 2009, p. 10). The amount of direct habitat loss and total fragmentation varies greatly depending on well density (number of acres per well) and spacing (distance between individual well pads). Increasing wells per unit area decreases the amount of habitat available for wildlife. Well densities and spacing are typically designed to maximize recovery of the resource and are administered by State oil and gas agencies and the BLM on Federal mineral estate. Each geologic basin has a standard spacing, but exemptions are granted (Connelly *et al.* 2004, pp. 7-39 to 7-40). Within the range of the white-tailed prairie dog, well spacing can vary from 5 to 160 acres per well. Larger well spacing is often characterized by more wells drilled per pad. Increasing the number of wells per pad increases the size of the individual pad but decreases the amount of habitat fragmented. The variation in well and well pad spacing results in a variation in the intensity of effects across the species' range. However, we are unable to determine how the ultimate effects to the species vary with well density. The threshold levels of oil and gas development that result in reduced populations or eliminated colonies are unknown.

Resulting impacts to white-tailed prairie dogs from oil and gas development may include direct mortality from vehicles; direct mortality associated with increased access by recreational shooters who utilize the new access routes (Gordon *et al.* 2003, p. 12); increased disturbance responses from increased human activity; direct loss of habitat and forage resources during exploration, drilling, and production; and indirect loss of forage resources from invasive, nonnative plant species (Seglund and Schnurr 2009, p. 126).

No studies have been done regarding the short-term or long-term impact of oil and gas development on individual white-tailed prairie dogs or their colonies. White-tailed prairie dogs can be negatively impacted by the direct loss of habitat that occurs as a result of development. For example, white-tailed prairie dog burrow densities were lower at well locations compared to areas further from the well pads (Biggins *et al.* 1984, p. 12). Dead prairie dogs were found in oil and gas reserve pits (Esmoil 1995 in Peterson 2008, p. 5), although the extent of population level impact is not known. The use of vibroseis trucks in prairie dog colonies appears to impact vegetation, but preliminary results did not document prairie dog mortality or burrow collapse (Young and Sawyer 1981, pp. 1-2; Menkens and Anderson 1985, p. 7).

However, as described above, exposure to a factor does not necessarily indicate that the factor is a threat. We know that white-tailed prairie dog colonies exist in areas with long-term oil and gas development. Some of the largest and most robust colonies are located near areas of intense oil and gas development (see *Distribition and Abundance*, above, and our discussion under *Factor C*, below). For example, the Coyote Basin, Kennedy Wash, and Snake John colonies in Uintah County, Utah, occur within a landscape fragmented by oil and gas infrastructure, although their immediate occupied habitats have not sustained significant energy development. Fifty percent of the mapped occupied habitat in this region has been leased with 17 percent currently producing (See Utah, below). Populations in this area have fluctuated; although this has been attributed to drought (See *Climate Change*, below). Despite the high amount of leasing in this area, populations have recovered to their 20 year recorded peak. Similarly, Coyote Basin and Wolf Creek are historically Colorado's most robust colonies and occur within the Northwest IPA where oil and gas development is high. Forty one percent of this IPA has already been leased, with 7 percent currently producing (Hotze 2010, p. 20). Prairie dogs continue to occupy a moderately sized complex within the Coal Oil Basin (Colorado's largest oil field) despite an active drilling history that extends back to 1944 (Wolf Creek Work Group 2001, p. 15).

Available information does not indicate that white-tailed prairie dogs are currently reacting to oil and gas activities on a local landscape scale or at the population or species level. We also do not know if there is a level of oil and gas development at which the status of prairie dogs at the population or species level would be negatively impacted. As described above, white-tailed prairie dogs persist in several areas with oil and gas activity.

To evaluate the extent to which oil and gas development may affect white-tailed prairie dogs in the foreseeable future, we overlaid BLM-authorized oil and gas leases with the species' gross range. More specific information was available for Utah and Colorado, so we overlaid oil and gas development with white-tailed prairie dog predicted range (Seglund and Schnurr 2009, p. 24) in Colorado and mapped occupied habitat in Utah (Hotze 2010, p. 7). We also reviewed information on State-specific potential oil and gas reserves where that information was available. The results are presented below and in the State-by-State analysis sections.

In additional to managing lands in Wyoming, Colorado, and Utah, the BLM manages the Federal mineral estate, including authorizing oil and gas leases. Leases may be producing or non-producing. Producing leases are those being actively developed. Non-producing leases are leased; however, the resources for which they were leased are not currently being extracted. Non-producing leases may become developed in the future, but development is not guaranteed (Thompson 2010, pers. comm.). We consider these leases to be indicative of potential development. However, we do not know the percent of non-producing leases that will become developed in the future because the variables governing development are complex and include the price of gas, the number of other leases the company holds, the actual amount of resource the lease contains (often unknown at the time of lease), and other complex economic and social factors.

In addition to the producing and non-producing leases, BLM has authorized a significant amount of the Federal mineral estate that may be leased in the future. Each BLM field office developed a resource management plan that delineates areas available for leasing and depicts surface access constraints (e.g., BLM 2008a, p. 7). The areas that are available for leasing are larger than those that have already been authorized, and include areas that may be developed in the future should proven reserves be located. Development of the entire area available for leasing is unlikely due to BLM's multi-use mandate, but the area available for

leasing represents a potential maximum of oil and gas development. Non-Federal mineral estates are managed by State, tribal, and private mineral rights owners under different programs and using different processes.

We were unable to specifically quantify the impacts of development on non-Federal mineral rights. Total active and plugged wells are available as GIS layers from each State's oil and gas development commission. However, number of wells is not a biologically meaningful measure to the white-tailed prairie dog because the effects depend on the amount of land leased and well density and spacing. As previously stated, the impacts to the species at different well spacing densities are not well understood. Approximately two-thirds of wells within the species range are located on Federal versus non-Federal estate (BLM 2009; Colorado Oil and Gas Conservation Commission 2010; Wyoming Oil and Gas Conservation Commission 2010; Utah Division of Oil and Mining 2010; unpublished data). Similarly, approximately two-thirds of the species range is in Federal vs. non-Federal ownership. We assume that a similar ratio of development of non-Federal minerals is likely to occur in the future as is occurring for Federal minerals. Because leasing does not guarantee development, and the fact that we are unable to estimate leasing rates on non-Federal estate, we consider the numbers presented below (in the State-by-State analysis) as an approximate measurement of Federal and non-Federal development that could occur in the foreseeable future.

The BLM has authorized 5,687,259 ha (14,053,523 ac) of producing and non-producing leases for oil and gas development, representing approximately 28 percent of the white-tailed prairie dog's gross range (Hotze 2010, p. 18). Producing leases occur across 1,435,580 ha (3,547,395 ac), or 7 percent, of the species' gross range (Hotze 2010, p. 18). Future exploration and development of fossil fuels is likely to focus in areas of highest potential return. Highest potential return is defined by several geological characteristics including permeability and porosity of the underlying rock (BLM 2005a, p. 41). For example, in the BLM Little Snake field office of northwest Colorado, approximately 96 percent of new wells will be drilled in areas with high oil and gas potential (BLM 2007b, p. 3:100). In high and moderate potential areas in Wyoming, a single well can produce 4 to 30 times as much as a well in low potential areas (BLM 2008b, p. A20:6). Therefore, we assume these areas will be the focus of future leasing.

Colorado

In Colorado, the BLM authorized oil and gas leases on 30 percent of the white-tailed prairie dog's predicted range in the State (Hotze 2010, p. 20) across the Northwest, North, and Grand Valley-Uncompahgre IPAs. Of the authorized oil and gas leases within the predicted range in Colorado, there are 61,334 ha (151,560 ac) of producing leases, which comprise approximately 5 percent of the predicted State range (Hotze 2010, p. 14). Non-producing leases encompass 311,650 ha (770,104 ac), or approximately 25 percent of the predicted State range (Hotze 2010, p. 14).

Northwest Individual Population Area (IPA)

The Northwest IPA in Moffat and Rio Blanco Counties is within the Greater Green River Basin (DOI *et al.* 2006, p. 20) and has the highest potential for oil and gas development (Seglund and Schnurr 2009, p. 61). This IPA comprises approximately 54 percent of white-tailed prairie dog predicted habitat in Colorado (Hotze 2010, p. 10). Authorized lease areas in 2009 encompassed approximately 41 percent of the Northwest IPA (Hotze 2010, p. 20), and oil and gas development is projected to significantly increase over the next 20 years (Seglund and Schnurr 2009, p. 128). For example, the BLM anticipates authorizing the drilling of 3,031 oil and gas wells over the next 20 years in Routt and southwestern Moffat Counties (BLM 2007b, p. 3:100), whereas the previous 20 years resulted in 594 drilled wells (BLM 2007b, p. 3:99). Similarly, the BLM anticipates between 17,800 and 21,200 new wells will be drilled over the next 20 years in Rio Blanco and central and northern Moffat Counties, whereas there were 5,800 wells drilled previously (Seglund and Schnurr 2009, p. 129). However, the majority of these wells will occur outside of the white-tailed prairie dog's predicted range (Seglund and Schnurr 2009, p. 129). Approximately 96 percent of new wells will be drilled in areas with high oil and gas potential as defined by the BLM (2007b, p. 3:100); we believe this localizes the development to some extent and thus limits the amount of prairie dog habitat impacted.

Three potential coal bed methane areas partially overlap white-tailed prairie dog habitat in the Northwest IPA: eastern Sand Wash Basin, Lower White River, and Danforth Hill (BLM 2007b, p. 3:102). However, the majority of the coal bed methane areas occur outside the predicted range for the species within Colorado (BLM 2007b, Figure 3-16; Seglund and Schnurr 2009, p. 119).

Grand Valley-Uncompahgre IPA

There is potential for energy development to occur in a corridor of the Grand Valley-Uncompahgre IPA in Mesa, Montrose, and Ouray Counties (Seglund and Schnurr 2009, p. 54). Approximately 14 percent of the white-tailed prairie dog's predicted range in this IPA is authorized for lease or contains pending leases from the BLM (Seglund and Schnurr 2009, p. 131; Hotze 2010, p. 20). The BLM estimates authorizing 3,600 wells on 1,519 pads over the next 20 years in this IPA (Ewing 2009, pers. comm.). The total area disturbed is estimated at 13,200 ac (5,342 ha) of short-term disturbance and 4,100 ac (1,659 ha) of long-term disturbance (Ewing 2009, pers. comm.). We do not know where this development will occur with respect to known prairie dog colonies. However, 85 percent of this IPA remains unleased, and future wells represent a relatively small (less than 2 percent of this IPA) amount of additional disturbance.

North IPA

Crude oil was historically produced in the North IPA to a limited degree. However, EOG Resources discovered a large reservoir of crude oil in this area in 2008, and subsequently acquired a lease for 100,000 ac (40,469 ha) of land in the area (Seglund and Schnurr 2009, p. 129). Approximately 25 percent of the white-tailed prairie dog's predicted range in the North IPA has authorized or pending leases (Seglund and Schnurr 2009, p. 131; Hotze 2010, p. 20).

In summary, BLM has authorized and has pending leases on approximately 30 percent of the predicted range of the species within Colorado for oil and gas development (Seglund and Schnurr 2009, p. 131; Hotze 2010, p. 20). The largest potential for overlap and impacts to white-tailed prairie dogs occurs in the Northwest IPA; oil and gas development is projected to increase substantially in this IPA over the next 20 years (Seglund and Schnurr 2009, p. 129). We expect the majority of future oil and gas development to occur in this IPA. We do not know the exact locations of energy development facilities with respect to locations of white-tailed prairie dog colonies. Oil and gas development will likely impact white-tailed prairie dogs, causing individual mortalities and habitat loss and fragmentation. However, the majority of oil and gas development will occur in

areas of high potential energy reserves, and particularly in the Northwest IPA, so impacts to the species are likely to be more localized, and are not expected to occur at high levels across the species' predicted range in Colorado. Based on the available information, we do not believe oil and gas development in Colorado is a threat to the species now or in the foreseeable future.

Montana

White-tailed prairie dog habitat in Montana represents less than 1 percent of the gross range of the species (Seglund *et al.* 2006, p. 91), and is contained entirely within Carbon County. Therefore we did not calculate the area impacted by oil and gas leasing. The area containing the South Sage Creek white-tailed prairie dog colony was leased in January 2002, but is not yet developed (Begley 2010a, pers. comm.). The South Sage Creek colony occupies less than 6 ha (15 ac), or 5 percent of the occupied habitat in Montana (MFWP 2009b, p. 3). The area containing the Robertson Draw colony is available for leasing but has not yet been leased (Begley 2010a, pers. comm.). Oil and gas development is not impacting the remaining six colonies in Montana (Seglund *et al.* 2006, p. 26). Because of the small amount of habitat impacted, oil and gas development is not a significant threat in this State, now or in the foreseeable future.

Utah

The BLM has authorized oil and gas leases on 31 percent of the white-tailed prairie dog's gross range in Utah (Hotze 2010, p. 18). The highest overlap between the gross range of the white-tailed prairie dog and oil and gas development potential occurs in Uintah, Duchesne, Grand, and Carbon Counties (Hotze 2010, pp. 21-22; Utah Department of Natural Resources 2004 in Seglund *et al.* 2006, p. 33).

The Uinta and Piceance Basin areas of Utah have significant oil and gas resources (BLM 2008a, p. 3:38). Approximately 82 percent of 18,982 existing well locations in Utah occur in the Uinta Basin in Duchesne and Uintah Counties (Hotze 2010, pp. 15-16). There are 97,266 ha (240,350 ac) of mapped occupied white-tailed prairie dog habitat in Uinta and Duchesne Counties (Hotze 2010, pp. 7-8). The BLM has authorized oil and gas leasing on approximately 51 percent of this mapped occupied habitat (Hotze 2010, p. 22). The BLM estimates that approximately 2,055 new oil wells, 4,345 new gas wells, and 130 new coal bed methane wells will be drilled within the Uinta Basin during the 15- to 20–year planning period (BLM 2008a, p. 3:36). Approximately 73 percent of the Federal mineral rights open to leasing in the Uinta Basin area have already been authorized (Hotze 2010, p. 24). Therefore, the authorized leases represent a fair assessment of the potential impact to white-tailed prairie dogs. These leases have a 201-meter (660-ft) no surface occupancy stipulation adjacent to occupied prairie dog colonies, which will minimize direct mortality of prairie dogs and the loss of habitat from future development (see *Factor D. Inadequacy of Regulatory Mechanisms,* below, for a discussion of these stipulations).

There are 14627 ha (36,144 ac) of mapped white-tailed prairie dog habitat in Carbon and Emery Counties (Hotze 2010, p. 8). The BLM has authorized oil and gas leasing on approximately 52 percent of this occupied mapped habitat (Hotze 2010, p. 22). About 2300 ha (5,600 ac) (15 percent) of this habitat is located within areas considered to have high potential for oil and gas resources (BLM 2004, p. 4:119). These leases also have a no surface occupancy stipulation for prairie dog colonies (see *Factor D*).

In summary, oil and gas leasing and development is authorized by BLM across 31 percent of the species' gross range in Utah. The majority of current and future project development occurs in the Uinta Basin in northeastern Utah, and thus potential impacts to the species could be greatest in this area, particularly because 52 percent of the species' mapped occupied habitat is leased. We consider the Uinta Basin to be the highest potential development area in Utah. Exploration and drilling, as previously discussed, can result in mortality of individual prairie dogs and the loss and fragmentation of habitats. However, robust white-tailed prairie dog colonies continue to persist in the Uinta Basin, in areas associated with existing oil and gas development. The BLM imposes a no surface occupancy stipulation that prohibits activity within 201 meters (660 ft) of white-tailed prairie dog colonies in the Uinta Basin (see *Factor D*), which will minimize direct mortality of prairie dogs and the loss of habitat from future development. The likely concentration of oil and gas development in high potential resource areas should also minimize the amount of white-tailed prairie dog habitat directly lost to development. Due to these factors, we do not believe oil and gas development in Utah is a threat to the species now or in the foreseeable future.

Wyoming

Seventy-seven percent of the species' gross range in Wyoming overlaps potential energy resources in Wyoming (Seglund *et al.* 2006, p. 39). However, not all potential energy resources will be developed. Therefore, we further reviewed leases and potential energy resources to determine the extent of development in the foreseeable future (the next 20 years).

Approximately 3,443,269 ha (88,508,503 ac) of land, or 27 percent of the species' gross range in Wyoming, is authorized for leasing by BLM (Hotze 2010, p. 18). These leases are either producing or are non-producing. However, we expect the majority of new wells will be drilled in areas with high oil and gas potential. In high and moderate potential areas in Wyoming, a single well can produce 4 to 30 times as much as a well in low potential areas (BLM 2008b, p. A20:6). Most wells will be drilled in areas of high potential oil and gas resources (Copeland *et al.* 2009). Only 415,649 ha (1,027,057 ac), or 4.2 percent of the species' predicted range in Wyoming, occurs in high potential oil and gas resource in areas as defined by Seglund *et al.* (2006, p. 39). Low and medium potential oil and gas resources overlap 73 percent of the gross range of white-tailed prairie dog (Seglund *et al.* 2006, p. 39). Twenty-three percent of the gross range has no oil or gas resources. Given the existing development, we consider the area in southern Wyoming between Rawlins and Rock Springs to be a high potential area (Hotze 2010, p. 11).

Oil and gas development and reserves occur throughout the gross range in Wyoming. We do not know the exact locations of future energy development facilities with respect to locations of white-tailed prairie dog colonies. Oil and gas development will likely impact white-tailed prairie dogs, causing individual mortalities and habitat loss and fragmentation. However, as previously discussed, only a small portion (4.2 percent) of the species' gross range overlaps areas of high potential energy reserves. Energy development is most likely to be concentrated in areas of high potential reserves, so impacts to the white-tailed prairie dog will not occur at high levels across the species' entire gross range in Wyoming. Based on the available information, we do not believe oil and gas development in Wyoming is a threat to the species now or in the foreseeable future.

Summary of Oil and Gas Development

Table 2 (below) gives a summary of the percentage of BLM-leased area for oil and gas in gross, predicted, and mapped occupied range, by State. Generally, the area attributed to producing leases makes up a small portion of the species' range, although up to 28 percent of the species' gross range has been leased for potential development.

TABLE 2. PERCENTAGE OF LEASED AREA FOR OIL AND GAS IN GROSS, PREDICTED, AND MAPPED OCCUPIED RANGE OF THE WHITE-TAILED PRAIRIE DOG.

(Totals include a small amount of land authorized for leasing but not yet leased; and therefore not included in the other two categories.)

State	Percent Producing Leases	Percent Non-Producing Leases	Total Percent Leased*
Colorado (Gross)	9	20	30
Northwest IPA (Predicted)	7	34	41
North IPA (Predicted)	2	22	25
Grand Valley/Uncompahgre IPA (Predicted)	3	11	14
Total, Predicted range	5	25	30
Utah (Gross)	10	19	31
Uintah Basin (mapped occupied)	17	32	51
Carbon and Emery Counties (mapped occupied)	4	48	52
Wyoming (Gross)	6	21	27
Total (Gross)	7	20	28

Oil and gas development is a major cause of development in the gross range of the species and is likely to continue into the foreseeable future at similar rates of development. Twenty-eight percent of the species' gross range is authorized for leasing. Leasing does not guarantee development, and therefore we consider the area leased Federally to be an estimate of the rangewide development, including non-Federal estate. A minimum of 13,000 additional wells will be authorized in the foreseeable future. However, energy development will not occur uniformly across the landscape. Most development will occur in areas of high resource potential. Development is also mediated by variations in well density and spacing. There are localized regions across the white-tailed prairie dog's gross range where development is most prevalent, including the Uinta Basin in Utah, the Northwest IPA in northwestern Colorado, and the southwestern region of Wyoming. The impacts to white-tailed prairie dogs would thus be greater in these locations than in other parts of the species' gross range.

In areas where energy development overlaps occupied white-tailed prairie dog habitats, the resulting habitat loss and fragmentation likely has negative effects on individuals and populations, including mortality, noise disturbance, and habitat loss and fragmentation. Presumably, there is a threshold level wherein habitat loss and fragmentation may threaten the white-tailed prairie dog, at least in localized regions. However, our available information indicates energy development does not currently significantly threaten the species; for example, large prairie dog complexes continue to persist in areas of high energy development (see *Colorado* and *Utah*, above). Based on the information available to us, we have determined that oil and gas development does not significantly threaten the white-tailed prairie dog now or in the foreseeable future.

Development of Oil Shale, Tar Sands, and Other Minerals

Extraction of oil shale and tar sands results in the removal of wide swaths of habitat. Oil shale and tar sands development results in a loss of habitat of the entire lease, although only portions of the lease would be impacted at a given time. Impact footprints for oil shale leases for strip mines are approximately 2,331 ha (5,760 ac) in size (BLM 2008c, p. 4:4), and each surface retort mine (an underground mine with processing of the material above ground) is approximately 668 ha (1,650 ac) (BLM 2008c, p. 4:8). When an area is processed, the impact footprint shifts to another portion of the lease, and mined areas are reclaimed. The success of reclamation varies dependent on site conditions (BLM 2008c, p. 4:71). Oil shale and tar sand development activities can result in long- term or permanent habitat loss and fragmentation of white-tailed prairie dog habitats (BLM 2008c, p. 4:109) depending on the quality and success of habitat reclamation.

Oil shale and tar sands resources occur across 8 percent of the gross range of the species (Hotze, 2010, p. 34). Approximately 1,228,100 ha (3,034,696 ac) of potentially productive land for oil shale and tar sands occurs in Wyoming and Utah (BLM 2008c, p. 2:113), and the BLM made available 660,215 ha (1,631,424 ac) of Federal land for leasing in this area (BLM 2008c, p. ES:7). A very small portion of the white-tailed prairie dog's gross range is identified for leasing in Colorado (Seglund and Schnurr 2009, p. 121).

Oil shale and tar sands development has failed to materialize due largely to technological problems and unfavorable economics. Significant economic questions remain regarding the development of the Green River formation oil shale and tar sands resources (Bartis *et al.* 2005, pp. 15, 53; BLM 2006, pp. 7, 15-19, 31, 34-36). The cost associated with an essentially new industry using new and innovative technologies is likely to be great.

Economic success of oil shale- and tar sands-derived petroleum will depend on continuing high and stable petroleum prices. Due to past fluctuation of petroleum prices, private industry has exhibited a reluctance to proceed with research, development, and subsequent commercial production of oil shale. This situation will likely continue unless the petroleum industry is convinced that petroleum prices will remain high well into the future (Bartis *et al.* 2005, pp. 59-61; Bunger *et al.* 2004, pp. 7-9).

Oil shale and tar sands extraction and development remains a speculative industry. At this time, we believe it is unlikely that the BLM will begin leasing the identified properties for development within the foreseeable future, which we define as approximately 10-15 years. In addition, while oil shale and tar sands resources overlap 8 percent of the species' gross range, actual oil shale and tar sands development facilities overlap with only a small portion (less than 0.1 percent) of the species' gross range. We do not believe development of oil shale and tar sands is a significant threat to the species now or in the foreseeable future.

Mineral Development

Coal, uranium, sand, and gravel mining can result in the removal of habitat (BLM 2004, p. 4:12). These activities have the potential to result in long-term or permanent habitat loss and fragmentation, depending on the quality and success of habitat reclamation. These activities are not common land uses on BLM holdings in the gross range of the species. The BLM solid mineral leases total 108,170 ha (445,209 ac), less than 1 percent of the species' gross range (Hotze 2010, p. 30). The BLM coal leases total 88,167 ha (217,866 ac), also less than 1 percent of the species' gross range (Hotze 2010, p. 32). Available evidence does not suggest solid mineral leases are more common on private lands. Available information does not suggest they will become more widespread within the species' gross range in the future. Given the small percentage of the gross range impacted by these activities, we do not believe mineral development is a significant threat to the species now or in the foreseeable future.

Renewable Energy Development—Wind and Solar

The BLM has accessed areas of renewable resource potential with the objective of allowing the industries to focus development in the areas of highest potential (BLM and DOE 2003, p. 2). The majority of the species' gross range (Federal and non-Federal lands) has a low (~ 5kWh/m2/day) amount of direct solar resources (BLM and DOE 2003, p. A2). Currently, less than 1 percent of the species' range has been leased by BLM for development of solar resources (BLM 2009, unpublished data). We are unaware of solar developments on private land within the gross range of the species. The majority of the land containing the species' range is federally owned, and therefore we consider potential solar developments on non-Federal land to be insufficient to threaten the species. Given the limited solar resources and lack of development to date in the species' range, we do not consider solar energy to be a significant threat to the species now or in the foreseeable future.

Wind energy could impact the species by creating habitat loss, disturbance, or fragmentation; increasing the amount of invasive vegetation; increasing direct mortality; and increasing disturbance from noise and human presence (BLM 2005b, p. 5:42). Wind power has experienced a rate of expansion greater than any other renewable energy resource, and continued increases are predicted through 2030 (EIA 2009, pp. 47, 74). Depending on costs, wind power production could increase nationwide by as much as 38 percent by 2030 (EIA 2009, p. 74).

The BLM manages more land areas of high wind resource potential than any other land management agency. In 2005, the BLM completed the Wind Energy Final Programmatic Environmental Impact Statement (EIS) that provides an overarching guidance for wind project development on BLM-administered lands (BLM 2005b, entire). Best management practices are prescribed to minimize impacts of all phases of construction and operation of a wind production facility. We do not have information on how or where the EIS guidance was applied since 2005 and, therefore, cannot evaluate its effectiveness.

Wind energy developments leased by the BLM total 823,358 ha (2,034,562 ac), or approximately 4 percent of the species' gross range (Hotze 2010, p. 28). Only 5 to 10 percent of a development will have long-term surface disturbances (i.e., roads, foundations, substation, fencing) (BLM 2005b, p. 5:2).

To evaluate the potential of future wind energy developments to impact the species, we examined the potential locations for development. Within the species' gross range in Colorado and Utah, only poor and marginal wind power resources exist (NREL 2003, entire; NREL 2004, entire). In Wyoming, there are pockets of good, excellent, and outstanding wind power within the species' gross range in Fremont, Natrona, and Carbon Counties (NREL 2002, entire). The majority (more than 75 percent) of these counties are federally owned land. However, better wind power resources (rated as outstanding and superb, based on wind speeds) are available east of the species' gross range (NREL 2002, entire). We expect areas with the best wind resources will be developed first and receive more total development.

We are unable to quantify the wind development scenario for private lands in the species' gross range. No central organization currently tracks wind development on private lands. Given the small amount of private land that coincides with an economically developable wind resource, we assume a maximum development of less than 10 percent of the species' gross range in Wyoming.

The BLM maximum potential development scenario for wind energy in the entire State of Wyoming is an estimated total of 3,197,937 ha (7,902,000 ac) of potentially developable lands, but a much smaller amount is likely to be developed on BLM-administered lands (1,497 ha (3,700 ac)) (BLM 2005b, p. 5:2). The BLM estimates that only 5 to 10 percent of BLM area, or 150 ha (370 ac) of lands, will have long-term surface disturbance (BLM 2005b, p. 5:2). We expect that much of the economically developable land exists outside the species' gross range, and given the small size of the total area on Federal lands likely to be developed in Wyoming (1,497 ha (3,700 ac)), and that the majority of the species' range occurs on Federal lands, we do not expect wind energy development to have a significant impact on the species.

Because only small portions of the species' gross range are currently impacted by wind development and expected to be impacted in the future, we do not believe wind energy development represents a significant threat to the species. Given that projected development is small in regard to the size of the species' gross range, and that the majority of development will take place where better resources exist, we expect the overall impact of wind development on the white-tailed prairie dog to be low.

Urbanization

Conversion of land for urban development results in a permanent loss of habitat and fragmentation for many species, including the white-tailed prairie dog. Increases in major population centers result in increased infrastructure, such as roads and

transmission lines. These infrastructure features may impact habitats beyond the immediate urban area. Increased urbanization can introduce domestic animals, such as dogs and cats, that may prey on some prairie dogs (Magle and Crooks 2009, p. 198). Human population growth may result in an increased use of surrounding public lands for recreation (Seglund and Schnurr 2009, p. 54).

The effects of urban fragmentation on the white-tailed prairie dog have not been studied. Some information exists for the black-tailed prairie dog. Weights and sex ratios of black-tailed prairie dogs in urban environments were within normal ranges for the species (Magle 2008, p. 116). However, black-tailed prairie dogs were more likely to occur on larger, contiguous habitats within the urban environments rather than smaller, highly fragmented parcels (Magle and Crooks 2009, p. 197). Collapses of existing colonies were observed within highly fragmented urban environments (Magle and Crooks 2009, pp. 197, 199). This information suggests that some prairie dogs can survive in fragmented habitat, but population loss increases with degree of fragmentation and amount of time since fragmentation occurred (Magle and Crooks 2009, p. 200).

The rate of urbanization within the Rocky Mountain region is below the national average (White *et al.* 2009, pp. 41-42). As of 2004, urbanization affected 0.2 percent of the white-tailed prairie dog's gross range (Seglund *et al.* 2006, p. 45). Much of the existing and future predicted urbanization is localized to specific population centers, as further described below.

Colorado

Twenty-eight percent of the overall white-tailed prairie dog's predicted range is expected to be impacted by high density urban development (i.e., less than 16 ha (40 ac) per housing unit), 5 percent by moderate density urban development (16 to 32 ha (40 to 80 ac) per housing unit), and 8 percent by low density urban development (greater than 32 ha (80 ac) per housing unit) by 2020 in Colorado (Seglund and Schnurr 2009, p. 171). Public land comprises 59 percent of the species' predicted range in Colorado and is not expected to be impacted by urbanization (Seglund and Schnurr 2009, p. 171). We expect that only moderate and high density urban development will negatively impact the species, because low density developments still provide large expanses of area for colonies to exist and allow for connectivity between colonies.

The majority of urban development is predicted to occur in the Grand Valley-Uncompahgre IPA (Seglund and Schnurr 2009, pp. 52, 54). Urbanization has already fragmented white-tailed prairie dog habitats in this IPA (Seglund and Schnurr 2009, p. 54). By 2020, 37 percent of the IPA is expected to be impacted by high or moderate density urban development (Seglund and Schnurr 2009, p. 174). However, urbanization will be localized largely to the Grand Junction and Montrose urban areas. High or moderate density urban development will occur across much less of the North IPA (0.9 percent) and Northwest IPA (0.4 percent) (Seglund and Schnurr 2009, p. 174).

Urbanization has the potential to impact the species in Colorado, particularly in portions of the Grand Valley/Uncompahgre IPA. However, as noted above, high-density urbanization will be localized primarily to the human population centers of Grand Junction and Montrose. Because of its localized impact and the availability of large acreages of Federal, non-urbanized lands in the species' predicted range, we do not consider urbanization to be a significant threat to the species in Colorado now or in the foreseeable future.

Montana

In Montana, 49 percent of the species' predicted range is privately owned (Table 1, above). Private land uses include grazing, agriculture, and housing; a metropolitan area is located in nearby Carbon County. At one time, 31 distinct white-tailed prairie dog colonies occurred in Montana. Urbanization resulted in the loss of 3 colonies to road construction and development (Begley 2010b, pers. comm.). An additional 20 colonies were lost to impacts associated with mining, agriculture, or other unknown causes not directly attributable to urban development (Begley 2010b, pers. comm.).

Of the eight remaining colonies in Montana, four occur on privately owned land (Begley 2010b, pers. comm.). Three of these colonies are in areas that support livestock grazing (Begley 2010b, pers. comm.). We are unaware of any plans to develop these properties in the foreseeable future. The remaining four colonies occur on Federal lands and are thus not threatened by urbanization. Therefore, we do not consider urbanization in Montana to significantly threaten the species now or in the foreseeable future.

Utah

Urban development is expected to expand by 188,600 ha (466,041 ac) across the State of Utah by the year 2030 (White *et al.* 2009, p. 44). However, development is localized to metropolitan areas along the Wasatch front in Weber, Morgan, Summit, Davis, Salt Lake, Toole, Utah, and Juab Counties (U.S. Department of Agriculture (USDA) 2008, p. 2; U.S. Census Bureau (USCB) 2005a, p. 1). These areas do not overlap the species' gross range.

The majority of white-tailed prairie dogs in Utah occur in the Uinta basin (Lupis *et al.* 2007, p. 17). The potential for future urban development in the Uinta Basin is associated largely with the city of Vernal (USCB 2005a, p. 1). Vernal is a support and staging area for the oil and gas development (see *Factor A.* Oil and Gas Exploration and Development) of the Uinta basin; increased urbanized development is primarily the result of increased oil and gas expansion. However, much of the required urban infrastructure is already in place, and the majority of gross range in Utah is managed by Federal agencies (Table 1, above). The gross range and mapped occupied habitat of the white-tailed prairie dog in the Uinta basin does not overlap the developing areas associated with the city of Vernal; thus we expect that most of the predicted development through 2030 will occur outside of the species' gross range.

We evaluated the likely centers for urbanization in Utah through 2030 and compared these to the gross range and mapped occupied habitat of the white-tailed prairie dog. Based on our evaluation, we do not consider urbanization to be a significant threat to the species in Utah now or in the foreseeable future.

Wyoming

Wyoming has the largest amount of white-tailed prairie dog habitat and the smallest amount of predicted development. Over 46 percent of the species' gross range occurs in counties with no urban development: Park, Big Horn, Washakie, Hot Springs, Sublette, and Carbon Counties (USCB 2005b, p. 1). Only localized, small portions of the remaining counties will be impacted in the metropolitan area of Casper and the micropolitan areas of Riverton, Evanston, Rock Springs, and Laramie (USCB 2005b, p. 1). Given these factors, we do not believe urbanization is a significant threat to the species in this State now or in the foreseeable future.

In summary, habitat loss and fragmentation due to urbanization may

impact the white-tailed prairie dog, but only in localized areas. There is no indication that there will be significant increases in urbanization across the species' gross range in the future. Therefore, we do not believe urbanization to be a threat to the species now or in the foreseeable future.

Agricultural Land Conversion

Agricultural land conversion is the change in land use from any use to an agricultural use, including crops and pastures. Agricultural crops can benefit prairie dogs by providing highly nutritious forage (Crocker-Bedford 1976, pp. 73-74; Seglund and Schnurr 2009, p. 95). However, these colonies also are subject to additional mortality factors including higher lethal control efforts (see *Factor B.* Shooting and *Factor E.* Poisoning) to protect crops (Knowles 2002, p. 12), increased habitat fragmentation from fences and roads, and increased urban predators (Seglund and Schnurr 2009, p. 95).

The impact of past agricultural conversion is difficult to determine given how little we know about the historical range of white-tailed prairie dogs. Historical population declines occurred for all prairie dog species, and range contractions were documented for white-tailed prairie dogs in localized areas in Colorado and Montana (Knowles 2002, p. 12). However, we do not know if these losses were the result of agricultural conversion or other factors; it is likely that historical population losses were the result of a combination of impacts across the range of the species. Agricultural land conversion probably displaced some white-tailed prairie dogs in areas of Colorado and the Big Horn Basin in Wyoming (Knowles 2002, p. 12).

Today, agriculture occurs across 3.7 percent of the gross range of the white-tailed prairie dog (Seglund *et al.* 2006, p. 50). Many of the areas currently inhabited by white-tailed prairie dogs are arid and semi-arid with short growing seasons (Seglund *et al.* 2006 pp. 4-5) and therefore have limited potential for crops. In Colorado, the counties containing white-tailed prairie dogs saw a decrease in the amount of agricultural land by an average of 37 percent between 1954 and 2002 (calculated from data in Seglund and Schnurr 2009, p. 96). Farm land (e.g., crops, pasture, grazing (not including Federal grazing permits), USDA 2009, p. B:14) acreages have continued to decline across all States and counties that occur within the gross range of the white-tailed prairie dog (see Table 3, below). There is not a direct correlation between the decline in farm lands and increases in other land uses, although it is likely that the farmland has been re-converted to other rural uses, such as grazing, or has become urbanized (see *Factor A*. Urbanization).

TABLE 3. PERCENTAGE DECREASE OF FARM LAND, STATEWIDE AND IN COUNTIES PARTLY OR WHOLLY CONTAINED WITHIN THE RANGE OF THE WHITE TAILED PRAIRIE DOG, BETWEEN 2002 AND 2007 (USDA 2009, PP. CO 316, UT 249, WY 268, 316).

State	Statewide	Counties Within White-tailed Prairie Dog Range
Wyoming	12.1	14.0
Colorado	7.6	9.5
Utah	2.3	13.1
Average	7.3	12.2

In summary, agricultural land conversion was likely a major historical impact on the species. However, many of the areas currently inhabited are not suitable for crop lands, and appear to be supporting sufficient populations of the species. The effects of land conversion on the species are mixed, and currently very limited land is being converted to agricultural uses. Therefore, we do not consider agricultural land conversion to be a significant threat to the species now or in the foreseeable future.

Grazing

Native herbivores, such as pronghorn antelope (*Antilocarpo americana*), mule deer (*Odocoileus hemionus*), and bison (*Bison bison*), occurred in the sagebrush-steppe region prior to European settlement of western States (Osborne 1953, p. 267; Miller *et al.* 1994, p. 111), and prairie dogs co-evolved with these grazers. Domestic livestock grazing in the intermountain west began with the arrival of European settlers in the 1800s. The numbers of livestock were unregulated, and peaked in the early 1900s (Oliphant 1968, p. vii; Young *et al.* 1976, pp. 194-195, Carpenter 1981, p. 106; Donahue 1999, p. 15; Seglund *et al.* 2006, pp. 49, 51), with an estimated 19.6 million cattle and 25 million sheep in the West (BLM, 2009, pp. 1-2).

Excessive grazing by domestic livestock during the late 1800s and early 1900s, along with severe drought, significantly impacted sagebrush ecosystems (Knick *et al.* 2003, p. 616). Livestock grazing continues to be the most widespread type of land use across the sagebrush biome (Knick *et al.* 2003, p. 616; Connelly *et al.* 2004, pp. 7-29; Knick *et al.*, in press, p. 27). However, the intensity of grazing on all Federal lands has declined since the early 1900s (Laycock *et al.* 1996, p. 3).

Livestock grazing can affect ecosystem functions and structures, including a general decrease in grass and shrub cover, total plant biomass, and rodent species diversity and richness (Fleischner 1994, pp. 633-635; Jones 2000, pp. 160-161). Fencing and roads associated with grazing may cause habitat fragmentation and may directly or indirectly cause increased mortality of prairie dogs by increasing prairie dog-vehicle collisions, creating perch sites for raptors, and providing access corridors for predators (Call and Maser 1985, p. 3; Connelly *et al.* 2000, p. 974; Connelly *et al.* 2004, pp. 1-2).

"Overgrazing" refers to continued heavy grazing beyond the recovery capacity of the forage plants (Vallentine 1990, p. 329). Overgrazing causes the palatable and preferred herbaceous vegetation of prairie dogs to be preferentially removed, allowing shrubs and unpalatable plants to flourish. Overgrazing can facilitate the establishment of invasive species such as cheatgrass (*Bromus tectorum*) (Masters and Sheley 2001, p. 503) (see below for more information). The intensity, duration, and distribution of livestock grazing are more influential on rangeland condition than livestock density (Aldridge *et al.* 2008, p. 990). Grazing impacts to rangeland are determined by the type of animal, stocking rate, duration of grazing, season of use, and current habitat conditions (Vallentine 1990, entire).

Impacts of livestock grazing on white-tailed prairie dogs are not known largely because of our lack of historical species distribution information and the lack of ungrazed habitats as a baseline (Seglund *et al.* 2006, p. 49). Overgrazing may impact prairie dogs by degrading the quality and quantity of forage; decreasing forage availability during important breeding, rearing, and pre-hibernation periods; and decreasing white-tailed prairie dog reproductive success and over-wintering survival (Seglund *et al.* 2006, p. 49). However, the potential for impacts is likely to be site-specific. For example, removing livestock from shrub-steppe habitat can result in either an increase of species richness (Anderson and Inouye 2001, pp. 538, 544-545, 549-550), or a decrease in species richness (Manier and Hobbs 2007, p. 743), depending on site variables.

Grazing effects to other prairie dog species are known to some degree. Livestock grazing can have positive effects on black-tailed prairie dog colonies because of grazing's effect of converting mid-height and tall grasses to short grasses improves predator surveillance visibility (Uresk *et al.* 1981, p. 200; Cable and Timm 1987, p. 46). Overgrazing was shown to negatively affect Utah prairie dog growth rates, foraging ability, and survivorship (Cheng and Ritchie 2006, p. 550). Utah prairie dog colony extinction rates increased as plant species richness declined due to overgrazing (Ritchie 1999, p. 12). Heavy grazing also can contribute to an increase in shrubs in Utah prairie dog habitat (Crocker-Bedford 1976, p. 88). However, over time, Utah prairie dogs prefer areas with moderate grazing intensities over ungrazed areas, because sufficient forage remained available in the grazed plots (Cheng and Ritchie 2006, p. 554); cattle cannot eat plants below 2 centimeters (0.879 in), limiting the impacts of moderate grazing on prairie dogs. Results from the Utah prairie dog studies are most applicable to white-tailed prairie dogs due to similarities in habitat preferences. Both species use arid shrub-steppe habitats, and white-tailed prairie dogs can utilize shrub cover for hiding (Gadd 2000, pp. 24-26). Therefore, we assume that white-tailed prairie dogs react to grazing in a similar manner to Utah prairie dogs. However, reactions to overgrazing may not be as extreme in the white-tailed species due to their higher shrub tolerance.

We do not have information regarding site-specific range conditions on Federal or non-Federal allotments that overlap white-tailed prairie dog habitats. Range condition data is not collected in a manner that is biologically meaningful for small mammals. White-tailed prairie dogs, being a diet generalist living in arid environments, can persist with limited forage. It is unknown how far range condition must deteriorate before a habitat becomes incapable of supporting a colony. Therefore, we do not know how much of the habitat is overgrazed versus moderately grazed. It is likely that overgrazing impacts white-tailed prairie dog colonies in localized portions across the species' range. However, the available literature indicates that prairie dogs can coexist with some level of grazing, and in some cases, benefit from grazing. White-tailed prairie dogs have persisted during higher historical grazing pressures and livestock stocking rates have declined substantially. Therefore, we do not consider grazing to be a significant threat to the species now or in the foreseeable future.

Fire Occurrence and Suppression

The shrub-steppe habitat occupied by the white-tailed prairie dog evolved with infrequent fire frequency intervals of 100 to 450 years depending on the dominant species of sagebrush (Baker 2006, pp. 180-181). Fire suppression activities also were infrequent (Baker 2006, p. 182) and probably had little effect on sagebrush landscapes (Baker in press, p. 22).

Fire ecology of sagebrush habitats has changed since European settlement of the West. In general, fire frequencies have increased in lower elevation sagebrush habitats due to (and resulting in further) invasion of nonnative annual grasses, such as cheatgrass (Baker 2006, p. 178; Crawford *et al.* 2004, p. 8). Fire frequencies also have increased due in part to human activities and presence (Miller *et al.* in press p. 38). Fire frequencies have declined in higher elevation sagebrush habitats, resulting in the expansion of shrubs and trees (Miller and Rose 1999, p. 557; Baker 2006, p. 178; Crawford *et al.* 2004, p. 8). The number of fires and total area burned increased from 1980-2007 in sage-grouse habitat (Miller *et al.* in press, p. 39); this overlaps much of the white-tailed prairie dog's gross range in Wyoming and Colorado. However, the habitat mosaics and effects to wildlife resulting from fires are not well understood and vary across the landscape (Baker 2006, pp. 178, 183).

We do not have information specific to the effects of fire or fire suppression on white-tailed prairie dogs. White-tailed prairie dogs are adapted to a shrub-steppe grass mosaic. They use shrubs as forage and cover from predators (Tileston and Lechleitner 1966, pp. 31, 302; Hoogland 1981, pp. 266-268; Gadd 2000, pp. 24-26). They feed on forbs and grasses, and these can be increased by fire in shrubland habitat (Pyle and Crawford 1996, p. 323; Davies *et al.* 2007, p. 518).

We anticipate that the impacts of fire to white-tailed prairie dogs will vary locally across the species' gross range. In some places where fire has occurred, shrub or pinyon-juniper invasions are likely to occur and may reduce available sagebrush communities for the species (Miller and Rose 1999, p. 557). In other cases, cheatgrass may become the dominant plant species (Baker 2006, p. 178; Crawford *et al.*, p. 8), reducing preferred forage quantity and quality for the white-tailed prairie dog. However, the white-tailed prairie dog is able to use the mosaic of habitats created by fire and fire suppression activities, and thus we do not believe that fire occurrence or suppression is a significant threat to the white-tailed prairie dog now or in the foreseeable future.

Invasive Plant Species

Invasive plant species are promoted by intense levels of disturbance to the environment (Masters and Shelley 2001, p. 504), such as oil and gas development, agriculture, and urbanization. Invasive plant species alter ecological processes by displacing native species, increasing the vulnerability of communities to more invaders, and reducing wildlife habitat quality (Masters and Sheley 2001, p. 503). They can be particularly damaging in areas of low moisture, including shrub-steppe habitats, because they reduce water infiltration of the soil and possess deeper roots than native species, allowing them to use more water and reduce nutrient availability over time (DiTomaso 2000, p. 257). The proliferation of exotic annual weeds over native perennial grasses and forbs may impact the ability of white-tailed prairie dogs to meet their dietary needs, especially during drought years. Utah prairie dog colony extinction rates were found to increase as the number of locally occurring plant species declined (Ritchie 1999, p. 12). Cheatgrass in particular is widely distributed across the gross range of the white-tailed prairie dog. Cheatgrass creates an altered fire regime, increasing the amount of fire and reducing native grasses and shrubs (Masters and Sheley 2001, p. 503). Juniper species have invaded sagebrush habitat beginning with European settlement (Miller and Rose 1999, pp. 551, 555), and may result in decreased habitat if forestation progresses.

The main effect of invasive species is the decrease in habitat quality and forage. Some habitat may be lost due to pine-juniper invasion. It is likely that invasive species will have localized impacts to individual white-tailed prairie dog habitat. Presumably, a certain amount of invasive species is tolerable. Despite localized impacts, no data indicate that invasive species are threatening the species on a rangewide scale. At this point, the available information does not indicate that invasive species, although present within the gross range, are a significant threat to the white-tailed prairie dog now or in the foreseeable future.

Climate Change

Global surface temperatures rose (with regional variations) during the past 157 years, with the largest increases occurring since the 1970s (Trenberth *et*

al. 2007, p. 252). Globally, average surface temperatures rose by 0.074 degrees Celsius (°C) plus or minus 0.018 °C (0.13 degrees Fahrenheit (°F) plus or minus 0.03 °F) per decade during the past century (1906 through 2005) and by 0.177 °C plus or minus 0.052 °C (0.32 °F plus or minus 0.09 °F) per decade during the past quarter-century (1981 through 2005) (Trenberth *et al.* 2007, p. 253).

Similar surface temperature increases occurred across the gross range of the white-tailed prairie dog. The Southwest region, including the Colorado and Utah portion of the species' gross range, observed a 0.83 °C (1.5 °F) increase in average temperatures when compared to a 1960 to 1979 baseline (Karl *et al.* 2009, p. 129). The Great Plains region (including the Wyoming and Montana portion of the gross range) experienced a 0.83 °C (1.5 °F) increase over average temperatures, compared to the same baseline (Karl *et al.* 2009, p. 123). Drought conditions across the species' gross range were moderate to extreme (Marshall *et al.* 2008, p. 274).

The timeframe over which the best available scientific information allows us to reliably assess the effects of climate change is an important consideration. Until about 2050, greenhouse gas emissions scenarios (reviewed in the Intergovernmental Panel on Climate Change Special Report on Emission Scenarios in 2000, as cited in Ray *et al.* 2009, p. 8), which are an essential component of any climate change assessment, result in a similar range of projections of global and regional climate change (Ray *et al.* 2009, p. 8). Temperature increases over the next 30 to 50 years are relatively insensitive to the emissions scenarios used to model the projected change. Some warming, as projected in the greenhouse gas emissions scenarios, is anticipated as a result of greenhouse gases already in the atmosphere that will influence future climate, more so for mid-century versus late century (Meehl *et al.* 2007, p. 749; Mote and Salathé 2009, p. 30). The range in the spread of the models is due both to details in the formulation (which includes emission scenarios) of each individual model, and natural variability in climate. Because increases of greenhouse gas emissions have lag effects on climate, and because projections of greenhouse gas emissions can be interpreted with greater confidence until approximately mid-century, model projections for the next 30 to 50 years (centered on 2050) have greater credibility than results projected further into future. On the basis of available information, we have determined that predicted climate changes for 2025 and 2050 are more reliable than projections for the second half (up until 2100) of the 21st century and as such, we consider 2050 to represent the foreseeable future.

One scenario predicts an average increase in annual temperature in western North America (covering the entire gross range of the species) of between 1.1 to 3.4 °C (2 to 4 °F) by 2050, compared to a 1961 to 1979 baseline in the western United States (Smith *et al.* 2000, p. 29). Other predictions range from an annual mean warming of about 1.4 to 3 °C (2.5 to 5.5 °F) by 2050 as part of a continent-wide pattern of warming (Ray *et al.* 2009 p. 15). The projections show summers warming more (1.7 to 3.9 °C (3 to 7°F)) than winters (1.1 to 2.7 °C (2 to 5 °F)) (Ray *et al.* 2009 p. 15)

Climate change will affect precipitation. Generally, a reduction of depth, duration, and distribution of snowpack is expected (Solomon *et al.* 2007, pp. 770-772; Marshall *et al.* 2008, p. 276). Precipitation is predicted to decrease in the Southwest region (Karl *et al.* 2009, p. 129), and increase in the Great Plains region (Karl *et al.* 2009, p. 123). Climate change also will affect plague ecology (please see *Factor C. Disease and Predation*, below).

Recent climatic changes, including increased temperatures and freeze-free periods, and changes in precipitation, are important driving forces on ecosystems and have affected a wide variety of organisms with diverse geographic distributions (Walther *et al.* 2002, pp. 391-392; Parmesan and Yohe 2003, p. 41). Many plant and animal species have advanced the timing of spring events (e.g., plant flowering or bird migration) to occur earlier in the year and experienced a shift in latitudinal and altitudinal range (i.e., movement to higher latitudes or higher altitude) (Walther *et al.* 2002, pp. 391-392).

The white-tailed prairie dog and its habitat will likely be affected in some manner by climate change. Climate change could impact habitat quality, which may in turn affect prairie dog productivity. For example, higher quality habitats promote higher weaning success of adult and yearling female white-tailed prairie dogs (Cooke 1993, *in* Seglund *et al.* 2006, p. 7). We would expect higher quality habitats to occur in areas where rainfall is predicted to increase. Alternatively, increased drought in the southwestern portion of the gross range could reduce vegetation quality and quantity, resulting in lowered nutrition for the white-tailed prairie dog (Collier and Spillet 1975, p. 153; Seglund *et al.* 2006, p. 64). Drought may result in more time spent in burrows and less time spent foraging, as well as water-stress from lack of succulent forage (Collier and Spillet 1975, p. 153).

Population fluctuations of white-tailed prairie dog colonies at the Coyote Basin Subcomplex, Kennedy Wash Subcomplex, and Snake John Subcomplex in Uintah County, Utah, were likely the result of drought (Maxfield 2009, pers. comm.). The 2002 drought resulted in a decrease in available forage for white-tailed prairie dogs at a time when populations had peaked. This resulted in little or no reproduction in 2003, and a population crash in 2004 (Maxfield 2010, pers. comm.). Habitat conditions improved and the colonies rebounded to pre-drought population levels by 2008-2009 (Seglund *et al.* 2006, p. 101; Maxfield 2010, pers. comm.), indicating a level of resiliency of this species to withstand at least short-term climatic variations.

Life-history characteristics of the white-tailed prairie dog may be responsible for its resiliency and may provide protection from effects of climate change. The burrowing and hibernating behaviors of prairie dogs provide protection in times of low resource availability and unfavorable conditions, including those associated with climate change (Liow *et al.* 2009, pp. 264, 270). Overwinter survival and reproductive success is linked to habitat quality (Rayor 1985, p. 2839), so lack of adequate food resources during drought leads to a decrease in reproductive output as seen above. Individual animals also may adapt by becoming mostly inactive during times of drought (Liow *et al.* 2009, p. 270).

Shifts in the geographic ranges of wildlife have occurred as an effect of climate change (Walther *et al.* 2002, pp. 390-391), and may thus be anticipated for the white-tailed prairie dog. Due to the large gross range of the species (from the Southwest to the Great Plains, which are projected to have much different impacts from climate change, as discussed above), we expect the effects of climate change to vary throughout the species' gross range, both in nature of the impact and the timing of these effects. In addition, the species' gross range is contained within a region that already witnesses climatic variability as climate varies considerably between years (Smith *et al.* 2000, p. 224). Therefore we expect the effects of climate change to vary temporally (year-to-year) as well. This variation in effects will buffer the cumulative effects of climate change on the species as a whole because only a

portion of the gross range will be impacted at a given time.

Although the white-tailed prairie dog will likely be affected by climate change, it is not apparent that a net loss in occupied habitat will result. Variation in conditions across the gross range and a possible gross range shift could maintain sufficient habitat for the species. The species is adaptable to a wide array of climes, as evidenced by a geographic range that includes four States, as well as a wide elevational distribution (see *Ecology and Life History*, above). Unlike more vulnerable species in polar, coastal, and alpine ecosystems, habitat space exists to accommodate shifts in range. Therefore, we do not believe that climate change poses a threat to the species now or in the foreseeable future. The relationship between climate change and plague is discussed in more detail below (see *Factor C. Disease or Predation*).

Summary of Factor A

Energy development, urbanization, agricultural conversion, grazing, fire suppression, introduction of invasive plant species, and climate change within the gross range of the white-tailed prairie dog have occurred and will continue to occur in the future. We do not expect oil shale, tar sands, coal, and other mineral extraction activities to impact a large portion of the species' gross range. Urbanization will have an effect on some local populations, particularly in Colorado, but is not considered a rangewide threat. Grazing is likely impacting some areas of habitat, but no evidence indicates it is a significant threat. A net loss of habitat is not expected to result from climate change. Oil and gas development has the most potential to impact the species due to its widespread distribution and magnitude, yet the intensity of these activities varies greatly across the range due to differences in well density and spacing. Robust colonies and complexes exist even in the most developed areas. The majority of the gross range has not been subject to the intensity of development witnessed around robust colonies of Coyote Basin and Wolf Creek. While further development will occur, we expect the majority to occur in areas with high potential for productivity. Therefore, we do not consider oil and gas to be a significant threat to the species. We have no indication that invasive plant species are a significant threat to the white-tailed prairie dog now or in the foreseeable future.

We conclude that the best scientific and commercial information available indicates that the white-tailed prairie dog is not now, or in the foreseeable future, threatened by the present or threatened destruction, modification, or curtailment of its habitat or range to the extent that listing under the Act as an endangered or threatened species is warranted at this time.

Factor B. Overutilization for commercial, recreational, scientific, or educational purposes.

White-tailed prairie dogs were historically subjected to recreational hunting and shooting as a form of pest management on ranch and agricultural land; these practices continue under State regulations (see *Factor D.* Inadequacy of Existing Regulatory Mechanisms).

The effects of recreational shooting on white-tailed prairie dogs have not been examined. We do have limited information on how shooting affects black-tailed prairie dog populations. Black-tailed prairie dogs in colonies subject to hunting spent more time in alert behaviors and less time foraging, although this effect decreased a year after shooting (Pauli and Buskirk 2007, p. 1223). Recreational shooting reduced black-tailed prairie dog density at specific sites (Vosburgh and Irby 1998, pp. 366–367; Knowles 2002, p. 14) and may negatively affect reproductive rates (Pauli and Buskirk 2007, p. 1228). However, recovery of black-tailed prairie dog populations following shooting occurs (Knowles 1988, p. 54). No research has evaluated long-term impacts from recreational shooting, although population viability monitoring suggests it is unlikely to lead to extinctions of even small populations (Seglund and Schnurr 2009, p. 167).

Life-history traits and species distribution are likely to mediate the effects of shooting on white-tailed prairie dogs. The majority of black-tailed prairie dogs do not reproduce until 2 years of age (Hoogland 2001, p. 920). White-tailed prairie dogs, as previously stated, reach maturity at 1 year of age. Thus, we believe that white-tailed prairie dog populations may be able to recover from the effects of shooting more quickly than black-tailed prairie dogs.

Human recreationists may prefer targeting black-tailed prairie dogs because they live in larger, denser, more identifiable colonies and their mounds are more conspicuous (Seglund *et al.* 2006. p. 55). White-tailed prairie dogs are more dispersed on the landscape and use shrubland habitat for cover from predators. As a consequence, they may be more difficult to find and successfully shoot (Grenier 2009, pers. comm.), limiting the number of recreationists targeting white-tailed prairie dog colonies.

Recreational hunting is permitted rangewide, but it is unlikely that all colonies are exposed to equal risk. Recreational hunting is concentrated on colonies with reasonably easy access (Gordon *et al.* 2003, p. 12). Colonies at higher elevations or in remote areas may never receive hunting pressure due to the difficulty in gaining access. Colonies in close proximity to urban areas and agricultural fields likely receive the greatest shooting pressure (Gordon *et al.* 2003, p. 12; Seglund *et al.* 2006, p. 33). Urban and agricultural land uses affect a small part of the species' gross range (see *Factor A*).

The reproductive cycle of prairie dogs may influence impacts of recreational shooting. Lactating females spend the most time above ground, and lactation occurs during the months of April through July (Tileston and Lechleitner 1966, p. 301). During this time, adult male activity decreases. Recreational hunting in April, May, and June may have the greatest population level impacts because pregnant and lactating females and young of the year are the most vulnerable (Vosburgh and Irby 1998, p. 369; Keffer *et al.* 2000, p. 7). Recreational shooting could remove more offspring than adults or artificially skew the population sex ratio. Thus, seasonal restrictions may be important to reduce the effects of shooting at localized sites.

Seasonal white-tailed prairie dog hunting regulations are implemented in Utah and Colorado. In Utah, shooting is not permitted on white-tailed prairie dog towns between April 1 and June 15 (Utah Division of Wildlife Resources (UDWR) 2007, p. 4). In Colorado, shooting is not permitted on public land between March 1 and June 15 (Colorado Division of Wildlife (CDOW) 2009, p. 10). These closures may reduce impacts to the demographic structure and are expected to provide protection to white-tailed prairie dog populations (Seglund and Schnurr 2009, p. 165).

Recreational and pest removal shooting of white-tailed prairie dogs is allowed without a permit across much of the species' gross range; only Colorado requires a license. Because permits are not required, quantifying the number of prairie dogs killed by shooting is difficult. The only data available are from Colorado's Harvest Information Program (CDOW 2001-2005). In this program, a random survey of registered hunters was performed and an estimated take extrapolated from the survey results. This program does not differentiate between species of prairie dog, so estimates include Gunnison's,

black-tailed, and white-tailed prairie dogs.

According to the data in Colorado's 2000-2005 Small Game Harvest Reports, prairie dogs are not a common target among hunters. Only 4.6 to 7.4 percent of hunters reported shooting prairie dogs (CDOW 2001-2005). In addition, as previously discussed, the majority of hunted prairie dogs are likely to be black-tailed and Gunnison's prairie dogs, not white-tailed prairie dogs. Therefore, we do not believe this represents high hunting pressure on white-tailed prairie dogs.

Summary of Factor B

White-tailed prairie dogs, due to their distribution and life-history characteristics, are likely less affected by shooting than other species of prairie dogs. Effects of recreational shooting may be high on specific, easily accessible, localized colonies. However we do not expect that these effects will occur equally across the species' gross range or significantly threaten the species as a whole.

There are no other known threats due to commercial, scientific, or educational uses of this species. We conclude that the best scientific and commercial information available indicates that the white-tailed prairie dog is not now, or in the foreseeable future, significantly threatened by the overutilization for commercial, recreational, scientific, or educational purposes.

Factor C. Disease or predation.

Sylvatic Plague

Sylvatic plague (plague) is an exotic disease foreign to the evolutionary history of North American prairie dogs. Plague was first observed in wild rodents in North America near San Francisco, California, in 1903 (Eskey and Haas 1940, p. 1), and was first confirmed in white-tailed prairie dogs in 1936 (Eskey and Haas 1940, p. 14). It now occurs throughout the entire species' gross range (Biggins and Kosoy 2001, p. 906; Pauli *et al.* 2006, p. 3).

Plague is caused by a bacterium (*Yersinia pestis*), which fleas acquire by biting infected animals and subsequently transmit via a bite to other animals (Gage and Kosoy 2005, pp. 516-517). The disease also can be transmitted through pneumonic (airborne) or septicemic (blood) pathways from infected to disease-free animals (Barnes 1993, p. 28; Ray and Collinge 2005, p. 203; Cully *et al.* 2006, p. 158; Rocke *et al.* 2006, p. 243; Webb *et al.* 2006, p. 6236).

Plague occurs in prairie dog colonies as enzootic and epizootic events. Enzootic plague is an infection maintained in the population over time and causes a low rate of mortality within the colony. Not all individuals are affected because the low density within a colony results in less contact between individuals and a reduced transmission rate. Epizootic plague occurs when the disease spreads from enzootic hosts to more susceptible animals, resulting in a rapidly spreading die-off cycle (Barnes 1993, p. 29; Biggins and Kosoy 2001, p. 909; Cully and Williams 2001, p. 900; Gage and Kosoy 2005, pp. 506-508). Large numbers of animals can die within a few days (Lechleitner *et al.* 1962, pp. 190-192; Cully 1993, pp. 40-42).

The factors that cause a change from an enzootic to epizootic cycle are still being researched, but may include host density, flea density, and climatic conditions (Cully 1989, p. 49; Parmenter *et al.* 1999, p. 814; Cully and Williams 2001, pp. 899–903; Enscore *et al.* 2002, p. 186; Lomolino *et al.* 2003, pp. 118–119; Stapp *et al.* 2004, p. 237; Gage and Kosoy 2005, p. 509; Ray and Collinge 2005, p. 204; Stenseth *et al.* 2006, p. 13110; Adjemian *et al.* 2007, p. 372; Snäll *et al.* 2008, p. 246). Plague cycles (e.g., epizootic, recovery, enzootic) may result in successive population peaks that are progressively lower than the previous peak and that with each new epizootic, the loss of colonies from plague will exceed the rate of establishment of new colonies (Knowles 2002, p. 13). However, this pattern of progressively lower peaks has not been consistently observed throughout significant portions of the species' gross range.

White-tailed prairie dogs are extremely susceptible to plague (Williams 1986, p. 4). Individual colony population declines of 85 to 96 percent were reported throughout the species' gross range following epizootic plague events (Anderson and Williams 1997, pp. 702, 729). Recovery of white-tailed prairie dog colonies post-plague has occurred within as little as 1 to 2 years (Anderson and Williams 1997, p. 728; Menkens and Anderson 1991, p. 330; Anderson and Williams 1997, p. 728; Seglund *et al.* 2006, p. 69), or can take greater than 10 years (see site discussions below, particularly Little Snake). Epizootic plague frequently recurs in colonies (Barnes 1993, p. 29; Cully 1993, p. 39).

Plague likely persists in prairie dog colonies as an enzootic even when an epizootic outbreak subsides. In the absence of epizootic events, plague was found in fleas, plague antibodies were found in prairie dog and carnivore blood serum samples, and dead plague-positive prairie dogs were found (Biggins *et al. in press*, p. 7). More evidence of enzootic plague acting in populations of prairie dogs and of black-footed ferrets is an increase in survivorship when treated with experimental vaccines and flea control, even in the absence of epizootic plague outbreaks (Matchett *et al.* 2009 *in* Biggins *et al. in press*, p. 7). Increased survival with these treatments compared with untreated areas is indicative that enzootic plague is frequently present and suppressing population levels in untreated areas.

Possible reasons for maintenance of plague as an enzootic in the environment include survival of the bacterium in the soil, persistence of the bacterium in fleas, and the continued slow transmission of the bacterium within the prairie dog community (Gage and Kosoy 2006 in Biggins *et al.* in press, p. 2). Infected fleas exist in burrows for up to 13 months following a plague event (Fitzgerald 1993, p. 57).

Impacts of long-term enzootic plague infection may include local extirpation of colonies, extreme fluctuations in densities and occupied habitat, and inbreeding (Seglund *et al.* 2006, p. 58). Enzootic plague also may alter ecological processes (Biggins 2003, p. 7), such as population dynamics and dispersal. For example, if plague results in higher mortality of adults than juveniles, the remaining juveniles would be less likely to disperse away from their native colonies; they would instead replace the adults in the native colony, resulting in a younger population (Biggins *et al.* in press, pp. 2, 7).

We lack an understanding of how plague is impacting the white-tailed prairie dog on a rangewide basis. Plague monitoring is not performed rangewide. To assess the effects of plague, we evaluated available population and trend data on colonies and complexes known or suspected to be affected by plague. Sharp declines in abundance are generally attributed to epizootic plague outbreaks in the absence of testing. No data was available before the 1980s; all available data were collected after introduction of plague, in what we consider to be a post-plague environment. Therefore, recovery is defined as a return to observed population highs and not a return to pre-plague (prior to 1936 when it was first observed) abundance. We previously defined persistence as the long-term continuance of white-tailed prairie dog colonies, at a high enough level to exist in the long-term with minimal management assistance (i.e., dusting, the application of insecticides

to control flea populations, to reduce the spread of plague), in a variety of locations across the species' gross range. We recognize that different methodologies were used at different times and in different locales to derive the various historical estimates we obtained for review. These estimates contribute to the best available information, and we consider them comparable for determining long-term population trends, while acknowledging potential error margins.

Evaluating the data is difficult due to differences in survey methodologies. Information available for various colonies is alternately presented as surveys of active burrows, occupied habitat, population estimates, or prairie dog counts. For this reason, comparison between colonies is not appropriate, and we review each colony individually to derive a general understanding of plague effects. Available data for several colonies includes estimated prairie dog populations and prairie dog counts for different years; these figures are not directly comparable but still describe general trends.

Much of the available data is for sites that were considered for black-footed ferret management areas, which often, but not always, represent the most robust of the known white-tailed prairie dog colonies. Data collected at many of these sites was intended to determine suitability for black-footed ferret reintroduction, and not specifically designed to measure prairie dog abundance. The following is a discussion of some examples of white-tailed prairie dog complexes that have been impacted by plague. Some have declined and maintain lower numbers (appear to still be in a period of decline), while other complexes have declined but either partially or fully recovered. We believe population numbers in colonies or portions of colonies will continue to fluctuate widely, but retain the capacity to return to pre-epizootic numbers.

Little Snake Complex, Moffat County, Colorado

Plague was documented at this complex in 1994 and 1995, following notable declines in populations in 1983-1987 and again in 1993 (USFWS 1995, p. 11). In 1995, white-tailed prairie dog populations were estimated to equal 60 percent of levels prior to the 1983 epizootic (USFWS 1995, p. 11). Mapped occupied habitat declined by 92 percent between 1994 and 1999 (Seglund *et al.* 2006, p. iii). A portion of the complex representing 20 percent of the total area was remapped in 2009. Occupied habitat in that area was 11 percent of the area mapped in 1989 (Ausmus 2010, pers. comm.). Population trends in the remaining 80 percent of the complex were not yet assessed. No dusting (for flea control) is performed at this site. In summary, dramatic declines have occurred at the Little Snake Complex. We cannot document any recovery of the colony to date based on this limited information. The amount of occupied habitat has declined since the detection of plague in the mid-1990s.

Wolf Creek Complex, Moffat and Rio Blanco Counties, Colorado

Plague was suspected in 1985, due to white-tailed prairie dog declines. By 1994, the prairie dog population rebounded to pre-1985 levels (Seglund *et al.* 2006, p. 20). In 2001, population numbers at the Wolf Creek ferret management area were 52 percent lower than in 1993-1994. Populations remained stable through 2002 and 2003 (Seglund *et al.* 2006, p. 93), and densities increased from 2004 to 2006 (Seglund and Schnurr 2009, p. 72).

Wolf Creek was again heavily affected by plague in 2008, and the colony was treated with an insecticide for flea control in fall of 2008 and 2009 (Holmes 2010a, pers. comm.). Active colonies remain in the complex. Quantitative population estimates will not be available until fall 2010 (Rustand 2010, pers. comm.). In summary, white-tailed prairie dog populations at the Wolf Creek Complex have shown dramatic declines followed by recoveries. Fluctuations are likely related to climatic conditions, disease, or a combination of both (Holmes 2008 *in* Seglund and Schnurr 2009, p. 72).

Dinosaur National Monument, Moffat County, Colorado

A large white-tailed prairie dog colony occurred at the National Monument. No prairie dogs were observed on the colony in 2009. The colony is near Wolf Creek and may be affected by the same epizootic plague outbreak (Holmes 2010a, pers. comm.; Holmes 2010b, pers. comm.)

Montana

Montana Fish, Wildlife and Parks (MFWP) has records of 31 white-tailed prairie dog colonies historically occurring in the State (Begley 2010b, pers. comm.). In 1997, only two colonies remained (FaunaWest 1998 *in* Knowles 2002, p. 15). Three of these colonies were permanently lost to urbanization (Begley 2010b, pers. comm.). The cause behind the loss of the remaining 26 is unknown, although poisoning and plague are potential causes (Begley 2010c, pers. comm.). In 2006, the total number of colonies had increased to 10. In 2009, there were eight known active colonies (MFWP 2009a, p. 1; Hanebury 2009, pers. comm.). Plague was suspected by State biologists in the disappearance of one colony from 2006-2009. We do not have population numbers or trend information for any of the Montana colonies.

Shiner Subcomplex, Uintah County, Utah

White-tailed prairie dog population estimates in Shiner Basin were 15,065 in 1997; 47,551 in 1998; 5,383 in 1999, and 13,707 in 2000 (Seglund *et al.* 2006, p. 101). Total animals were counted on transects (not extrapolated for the area) between 2002 and 2007, and estimates were 5,475 animals in 2002; 4,284 in 2004; and 6,124 in 2007 (Maxfield 2009, pers. comm.). In summary, white-tailed prairie dog populations in this area have fluctuated since 1997. The population appears to be lower than occurred in 1998, but has stabilized since 2002. Plague was suspected in this decline (Maxfield 2010, pers. comm.).

Cisco Desert, Southeastern Utah

Mapping and burrow density estimates were conducted for white-tailed prairie dogs from 1985 to 1986. The area was resurveyed using counts of individuals in 1991 and 1992, because of concerns that prairie dog colonies may be declining (Seglund *et al.* 2006, p. 30). Substantially more prairie dogs were counted during 1992 than in 1991 (Seglund *et al.* 2006, p. 30). The population was estimated to be 50,000 animals in 1997 followed by apparent declines in burrow activity in 2001 (Wright 2006, p. 3). Between 1985 and 2006, burrows detected on transects dropped from 48.8 per ha (120.6 per ac) to 37.1 per ha (91.8 per ac). Of the individual complexes, 14 increased in density while 31 decreased (Wright 2006, p. 7).

We interpret this to represent an overall decline in this area between 1985-2006, with marked fluctuations during this period. Plague is suspected in these declines, although drought also contributed (Wright 2006, p. 3). The white-tailed prairie dog is still considered widespread and abundant in this area (Wright 2006, p. 3).

Meeteetsee Complex, Park County, Wyoming

Plague was first documented at Meeteetsee in 1985 (Biggins 2003, p. 7). Large fluctuations in population estimates and active burrows occur at this complex. For example, total active burrows counted were 12,481 in 1985; 7,644 in 1989; 6,782 in 1997; 12,428 in

1990; and 16,736 in 1998 (Biggins 2003, p. 11). This complex was resampled in 2008, and numbers were higher than 1997, but still below 1980s values (Biggins 2010, pers. comm.). In summary, individual colonies within the complex appear to suffer local, large population collapses followed by subsequent recoveries (Biggins *et al.* in press, p. 2). White-tailed prairie dogs continue to occupy the Meeteetsee Complex.

Shirley Basin/Medicine Bow Complex, Wyoming

Population estimates for the complex are available, based on partial surveys. Therefore, numbers presented represent trends but are not directly comparable. Numbers in parenthesis are the percent of complex transected during that year. Population estimates were 30,389 (31) in 1991; 14,551 (22) in 1993; 5,916 (6) in 1994; 19,876 (19) in 1996; 6,547 (16) in 1998; 6,669 (16) in 2000; and 34,698 (8) in 2001 (Seglund *et al.* 2006, p. 107). An additional 38,756 white-tailed prairie dogs also were recorded in 2001, in an area of the complex not surveyed in the previous years (Grenier *et al.* 2002, p. 23). Mapped occupied habitat increased 25 percent between 1991 and 2006 (Grenier *et al.* 2007, p. 133). Similar to other complexes, white-tailed prairie dog populations at Shirley Basin fluctuate dramatically, although direct comparisons are not appropriate due to yearly variation in transect sites. Plague was first documented at Shirley Basin in 1987 (Seglund *et al.* 2006, p. 36). In summary, plague likely impacted populations at Shirley Basin (Seglund *et al.* 2006, p. 36) and may be responsible for the fluctuating populations.

The examples above clearly show that plague is present within white-tailed prairie dog colonies across the species' gross range, and is likely responsible for large population fluctuations and significant declines in complexes or portions of complexes. However, the colonies and complexes also show a capacity to recover after plague events. Some colonies decline and maintain lower numbers, perhaps due to enzootic plague (Little Snake, Montrose County, and Shiner Basin). Other complexes decline but either partially recover (Montana colonies, Wolf Creek, Cisco Desert) or fully recover (Shirley Basin/ Medicine Bow).

We do not know if the colonies and complexes recovered to population numbers that existed before plague was introduced because we do not have historical population information. We also do not know if the colonies and complexes exhibit pre-plague life-history patterns of mortality, reproduction, dispersal, and colonization. The available data indicates that white-tailed prairie dogs can continue to persist in the presence of plague. Population numbers in colonies or portions of colonies will continue to fluctuate widely, but retain the capacity to return to pre-epizootic numbers. Plague is demonstrated to cause this pattern in rodent species in Asia, where plague is native (Biggins and Kosoy 2001, p. 64).

Continued persistence of colonies rangewide is impacted by many factors. The separation of colonies within complexes and distance between colonies may mediate the spread of plague. For example, the slow population decline witnessed at Meeteetsee between 1989 and 1997 is likely the impact of plague affecting only a portion of the complex at a time (Biggins *et al. in press,* p. 2). Similarly, only a portion of Wolf Creek was affected by plague while the nearby Crooked Wash did not experience a concurrent decline (Holmes 2010b, pers. comm.). Finally, a population at the Arapaho National Wildlife Refuge in north-central Colorado did not decline concurrent with the decline at Wolf Creek (Hoogland 2010, pers. comm.).

The ability for white-tailed prairie dogs to migrate may promote recolonization of colonies impacted by plague (Seglund *et al.* 2006, p. 10). The ability to repopulate colonies depends on a mosaic of interconnected colonies; isolated colonies are less likely to support sufficient immigration for long-term persistence of plague-affected colonies (Seglund *et al.* 2006, p. 60). The complexes of Little Snake, Wolf Creek, Coyote Basin, Kennedy Wash, Snake John, and Shiner are considered separate but are all located in adjacent Uintah and Moffat Counties, and a reasonable amount of connectivity exists between them.

Size also may be an important factor regulating persistence of individual colonies. Most of the sites discussed above are considered large complexes. In black-tailed prairie dogs, introduction of plague has resulted in colonies being consistently smaller than before first exposure to plague (Cully and Johnson 2008, p. 12). White-tailed prairie dog colonies may overall be smaller now when compared to pre-plague levels. Small colonies not part of a large complex may be affected by plague at a higher intensity and may not have enough source individuals to recover. Smaller populations are generally accepted to be more vulnerable than larger populations (Shaffer 1981, p. 131). Larger groups of black-tailed prairie dogs had a higher survival probability after translocation than small groups (Robinette *et al.* 1995, p. 872). We do not have data to assess specifically how plague operates in smaller, more isolated colonies. However, population viability modeling in black-tailed prairie dogs demonstrated continued persistence in small, fragmented colonies, assuming connectivity between populations (George *et al.* 2008, p. 1).

The temporal nature of plague is an important factor when considering rangewide impacts (Seglund *et al.* 2006, p. 59). Plague does not impact all populations rangewide at the same time, with a predictable reoccurrence rate, or to the same intensity. Large plague-related population declines were witnessed across the gross range, but in different years: Montana in 1997; Shirley Basin/Medicine Bow, Wyoming, in 1994 and 1998; Wolf Creek, Colorado, in 2001/2002 and 2008; and Uintah Basin in 1999 and 2003/2004.

Some social and behavioral traits of white-tailed prairie dogs appear to favor their long-term persistence in a plague environment. White-tailed prairie dog colonies are less dense and more widely dispersed than black-tailed or Gunnison's prairie dog colonies, which may slow transmission rates (Cully 1993, pp. 40-41; Cully and Williams 2001, pp. 898-899). White-tailed prairie dogs are less social when compared to other species; this trait may reduce transmission among individual animals (Hoogland 1981, pp. 252-253; Cully 1993, p. 40). Hibernation also contributes to slower transmission rates, although this may simply delay the onset of symptoms throughout all the colonies (Barnes 1993, p. 35).

Some tools are available to control plague. Deltamethrin and pyraperm are two insecticides used to successfully control fleas on colonies of different prairie dog species (Seery *et al.* 2003, entire; Hoogland *et al.* 2004, entire). Use of these insecticides has increased the number of juvenile Utah prairie dogs weaned (Hoogland *et al.* 2004, p. 379) and resulted in higher survival rates for black-tailed, white-tailed, and Utah prairie dogs (Biggins *et al.* in press, p. 5). Currently, insecticide use on white-tailed prairie dog colonies is limited to experimental use and when plague appears to be impacting colonies that support black-footed ferret reintroduction sites. Wolf Creek was treated in the summer and fall of 2009, in conjunction with that outbreak, and likely will be treated again in 2010. Other sites with black-footed ferrets include Coyote Basin, Snake John, Shirley Basin/ Medicine Bow, and Meeteetsee. Due to the expense of

applying insecticide and the effects to non-target species, this method is only used when plague has already been detected.

Experimental vaccine-laden baits are in development to immunize prairie dogs against plague. Black-tailed prairie dogs exposed to plague in a lab setting and fed vaccine baits experienced a high rate of survival (Mencher *et al.* 2004, pp. 5503-5504, Rocke *et al.* 2008, pp. 933, 936). The effectiveness of the vaccine is scheduled for field testing over the next year. A systemic flea control bait also is under development (Poche *et al.* 2008, entire). The flea control bait reduces flea loads on animals, the primary vector in spreading plague in prairie dogs (Jachowski 2009, entire). While use of any of the above techniques, or combinations thereof, to manage plague has not been tested at the landscape level, these techniques show promise in the ability to manage plague.

The occurrence of plague may be affected by climate change. As discussed in *Factor A*, Wyoming and Montana's yearly precipitation will become more variable while temperatures are expected to increase rangewide over the next 40 years. Plague outbreaks are significantly correlated with increased rainfall, particularly spring rainfall (Stapp *et al.* 2004, p. 237; Snäll *et al.* 2008, pp. 245-246). However, plague outbreaks are negatively correlated with the yearly total number of hot days and overall increased temperatures (Stapp *et al.* 2004, p. 238; Snäll *et al.* 2008, p. 245).

Because climate change will likely produce variation in annual rainfall (Stapp *et al.* 2004, pp. 504-505), plague outbreaks may oscillate as these factors interact. Warmer winters in particular can result in increased plague transmission (Stapp *et al.* 2004, p. 236; Salkeld and Stapp 2008, p. 620). This effect is probably due to a range of factors including reduced hibernation (Rayor 1985, p. 195), better over-winter flea survival, and increased habitat productivity (Stapp *et al.* 2004, pp. 237-238). In the Colorado and Utah portions of the gross range, winter precipitation is expected to vary greatly from year to year, with some winters being very dry while others experience intense precipitation and flooding (Karl *et al.* 2009, p. 130). This variation may result in pulses of winter or early spring plague outbreaks during wetter years that are reduced in intensity over several years as hotter summer temperatures reduce plague in the environment. Plague occurrences are likely to decrease in black-tailed prairie dogs due to climate change effects (Snä ll *et al.* 2009, p. 505). Because it is believed that changing environmental conditions resulting from climate change is directly impacting plague transmission, we also may expect that plague will eventually decrease in white-tailed prairie dog habitats, concurrent with rising temperatures. Climate change may have less of an impact on plague levels if white-tailed prairie dogs exhibit a range shift as witnessed in some other species.

Tularemia and Monkeypox

Tularemia (*Francisella tularensis*) and monkeypox (*Orthopoxvirus* spp.) are diseases that have had impacts on captive black-tailed prairie dogs associated with the pet trade, and a wild black-tailed prairie dog was reported as having fallen victim to West Nile virus (Seglund *et al.* 2006, p. 58). We have no information to indicate that any of these diseases are a concern for white-tailed prairie dogs at the population or species level.

Predation

Many species prey upon the white-tailed prairie dog including black-footed ferrets (*Mustela nigripes*), hawks (*Accipiter*, *Micronisus*, *Melierax*, *Urotriorchis* and *Megatriorchis* spp.), eagles (*Haliaeetus* spp.), badgers (*Taxidea taxus*), and coyotes (*Canus lupis*) (Seglund *et al.* 2006, p. 58). However, predation is a natural occurrence for white-tailed prairie dogs, and we have no information to indicate that predation is a threat to the species.

Summary of Factor C

Plague occurs throughout the gross range of the white-tailed prairie dog. The rangewide and long-term effects of plague on prairie dog populations are not well understood. There is evidence of epizootic outbreaks of the disease and enzootic maintenance of the disease in prairie dog colonies. We acknowledge that populations are probably reduced from historic levels, and some colony behavioral functions, including migration and social interactions, may be impaired by plague. However, we have no evidence that demonstrates that plague has eliminated white-tailed prairie dogs from large portions of its gross range after over 70 years of exposure to the disease. Affected colonies have shown partial or complete recovery after plague events, and complexes continue to persist at the landscape level. Available information indicates that plague events are to some extent localized temporally and spatially, which may help mediate the species-level effects. Management actions are underway to research and implement plague control mechanisms, such as dusting, vaccines, and flea control, which should help alleviate colony population fluctuations and declines due to plague in the foreseeable future. As a result, we have determined that while plague is affecting the white-tailed prairie dog, it is not a significant threat that is now causing or projected to cause the species to be at risk of extinction.

The available evidence does not indicate that other diseases or predation are sufficiently acting on the species to threaten the species with possible extinction now or in the foreseeable future. We conclude that the best scientific and commercial information available indicates that the white-tailed prairie dog is not now, or in the foreseeable future, threatened by disease or predation to the extent that listing under the Act as an endangered or threatened species is warranted at this time. Continued plague monitoring and research will be important for us to continue to assess the level of impact this disease plays in the long-term conservation of white-tailed prairie dogs. The development of a vaccine to protect prairie dog populations may help decrease future effects of plague.

Factor D. The inadequacy of existing regulatory mechanisms.

State Regulations and Private Land Management

Rangewide

State laws and regulations may impact white-tailed prairie dog conservation by providing specific authority for white-tailed prairie dog conservation over lands which are directly owned by the State; providing broad authority to regulate and protect wildlife on all lands within their borders; and providing a mechanism for indirect conservation through regulation of threats to the species (e.g., noxious weeds). In general, States have broad authority to regulate and protect wildlife within their borders. All of the States within the range of the white-tailed prairie dog have State school trust lands that they manage for income to support their schools. We are unaware of any specific regulations to ensure that the management of the State trust lands is consistent with the needs of white-tailed prairie dog. Thus there are currently no regulatory mechanisms on State trust lands to ensure conservation of the species.

Environmental planning regulations establish environmental quality as an essential component of land use and project planning and provide a structured, analytical frame work to make decisions that balance

environmental and economic factors (Council on Environmental Quality (CEQ) 1997, p.11). The implementation of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) has improved the quality of projects and reduced impacts to the environment in the Federal planning process (CEQ 1997, p. 17). Within the range of the white-tailed prairie dog, only Montana has NEPA-like environmental planning regulations (CEQ 2009, entire). Because activities on private and State lands in Colorado, Utah, and Wyoming are not subject to environmental review, they may have a greater impact to white-tailed prairie dogs than similar activities on Federal lands.

Potential impacts to the species that can be managed by State or private entities include recreational shooting, shooting to protect agricultural interests, and oil and gas development on non-Federal mineral estates. In addition, the State wildlife agencies can contribute to species conservation by supporting research and monitoring efforts, including plague management.

The Western Association of Fish and Wildlife Agencies (WAFWA) coordinates management efforts of the white-tailed prairie dog and other species among the western States. The WAFWA prepared a Rangewide Conservation Agreement for the White-Tailed Prairie Dog in 2006 (Seglund *et al.* 2006, entire). The objectives of the conservation agreement include identification and monitoring of the species' status and distribution, public education, identification and implementation of priority research needs, and creation of State management plans (Seglund *et al.* 2006, p. 3). The conservation agreement provides expertise, recommendations, and coordination of funding for the conservation of the species, but does not provide regulatory protection.

Private lands comprise a large portion of the predicted range of the species. Private landowners can control prairie dogs on their land as necessary in all States. However, general public access and hunting on private lands throughout the gross range are limited by trespass laws. We have no evidence that the control activities or policies of individual private landowners are threatening the species.

Oil and gas development occurs across the gross range of the species, including on lands managed by the States. We are unaware of any regulations or protection measures for white-tailed prairie dogs on these lands. However, based on available information, we do not consider oil and gas development a factor that significantly threatens the white-tailed prairie dog (see *Factor A*. Oil and Gas Exploration and Development, above).

Colorado

The Colorado Department of Wildlife (CDOW) released a Statewide Conservation Strategy outlining the management of white-tailed and Gunnison's prairie dogs in fall 2009 (Seglund and Schnurr 2009, entire). This document guides the development of conservation strategies for the three white-tailed prairie dog Individual Population Areas (IPAs) (see Distribution and Abundance). Local action plans with individual goals and objectives are under development for each IPA. The Statewide Conservation Strategy provides management priorities and guidance for the species, but does not provide regulatory protection.

All prairie dog species are classified as small game in Colorado. A small game license is required for shooting prairie dogs, with the exception of private landowners and their immediate family members or designees, who may kill prairie dogs causing damage on their lands (CDOW 2009, p. 10). Shooting of prairie dog species is not permitted on public land between March 1 and June 15 (CDOW 2009, p. 10), providing protection during the sensitive breeding and rearing time periods.

The Colorado Oil and Gas Conservation Commission (COGCC) had a policy encouraging voluntary cooperation among oil and gas operators in preventing and mitigating potential impacts to wildlife (COGCC 1996, entire). In 2009 the state legislature passed rules requiring oil and gas companies to consult with state wildlife officials regarding the impacts of their proposed development to wildlife. The rules promote best management practices and allow the state to set reasonable conditions of development in sensitive wildlife areas (COGCC 2009, entire). Application of these rules to white-tailed prairie dogs in particular is then up to state wildlife officials. Given the recent passing of these rules, it is unknown if they will be applied to prairie dog species.

Montana

White-tailed prairie dogs are identified as a Species of Greatest Conservation Need (Tier 1) in Montana's Comprehensive Fish and Wildlife Conservation Strategy (MFWP 2009a, p. 1). The State defines this as a species whose needs must be specifically addressed, whether through focus areas, community types, or individually (MFWP 2005, p. 188). This designation gives the State statutory authority to manage the species. For example, under this authority, MFWP translocates white-tailed prairie dogs in an effort to establish new colonies. Translocations began in 2007, and are expected to continue until at least 2011.

White-tailed prairie dogs in Montana were once protected from all shooting, but the regulation protecting them has lapsed, and they are currently unprotected. A license is not required to hunt prairie dogs in Montana.

Utah

The white-tailed prairie dog is listed as a Species of Concern in Utah, defined by the State as a wildlife species for which there is credible scientific evidence to suggest a threat to continued population viability within the State (UDWR 2007, p. 1). Species are provided this designation in order to encourage management actions and prevent the species from declining to the point where listing is necessary. Utah completed a conservation agreement and Strategy for white-tailed and Gunnison's prairie dogs in 2007. Under the conservation agreement, the State committed to conduct occupancy surveys in an effort to detect population declines and respond with appropriate management actions (Lupis *et al.* 2007, pp. 22-23). The Statewide conservation strategy provides management priorities and guidance for the species, but does not provide regulatory protection.

No license is required to hunt prairie dogs in Utah (UDWR 2009, p. 1). However, prairie dog shooting is not allowed between April 1 and June 15 (UDWR 2009, p. 4), providing the species with protection during sensitive breeding and rearing periods. In addition, a year-round shooting closure is implemented in the Coyote Basin black-footed ferret reintroduction area (7,604 ha (18,789 ac)).

Wyoming

White-tailed prairie dogs are considered a Species of Greatest Conservation Need: Native Species Status 4 in Wyoming. Species are given this designation when habitat is restricted or threatened, or population numbers are declining and unknown. The species was given a status level of 4 due to unknown population trends and restricted or vulnerable but not declining habitat (Wyoming Game and Fish Commission 1998, p. 238). No conservation agreement is in place for the species in Wyoming. State biologists participate in prairie dog surveys and management under the guidance of WAFWA.

Shooting of white-tailed prairie dogs is permitted in Wyoming without a license (WGFC 1998, pp. 52-54), and there are no seasonal closures. State biologists have witnessed no negative effects from removing a seasonal closure on the Shirley Basin population (Grenier 2009, pers. comm.); therefore, it seems unlikely that lack of closures is having a population-level effect.

In summary, the States are actively involved in prairie dog research and monitoring efforts under direction of the WAFWA Conservation Agreement and State-specific species management plans. The information obtained through these efforts will be valuable for future efforts to conserve the species and avoid threats. Recreational shooting of prairie dogs is not considered a threat to the species (see *Factor B.* Overutilization, above). However, seasonal shooting closures are implemented on a site-specific basis in Colorado and Utah. The lack of environmental planning and protection for the species from all land use activities on non-Federal land, including non-Federal oil and gas leases, may impact the species in the future. However, at this time the information we do have does not indicate that threats from land use activities are sufficient to require regulatory mechanisms now or in the foreseeable future (see *Factor A.*, above).

Federal Management Authority

Potential impacts to the species that could be managed by the Federal land management agencies include oil and gas development, grazing, fire suppression, poisoning, and recreational shooting.

Bureau of Land Management

The Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1701 *et seq.*) is the primary Federal law governing most land uses on BLM lands. Section 102(a)(8) of FLPMA specifically recognizes wildlife and fish resources as being among the uses for which these lands are to be managed. The BLM considers the needs of wildlife, including the white-tailed prairie dog, when conducting activities in their habitat. Typically, this means the impacts to these species are considered during project planning stages and conservation measures may be included at the discretion of the agency biologists. In addition, the BLM is required to meet environmental planning requirements under NEPA (73 FR 61292), which requires reviewing the effects of actions on the environment (including wildlife) before implementation.

The BLM's resource management plans (RMPs) are the basis for all of its actions and authorizations involving BLM-administered lands and resources. The RMPs establish allowable resource uses, general management practices, program constraints and other parameters of project design (43 CFR 1601.0–5(k)). These plans provide a framework and programmatic guidance for site-specific activity plans. In addition, BLM management plans may include conservation measures to protect the species. These measures vary between State and field offices.

Site-specific plans likely to affect white-tailed prairie dogs typically include livestock grazing, oil and gas field development, wildlife habitat management, and other land use activities. The potential effects of these activities on the species' habitat are addressed under *Factor A*, above.

In Colorado's Grand Valley/Uncompahgre IPA, BLM lands have special designations offering protections, such as a yearly closure to motorized and non-motorized travel restrictions to designated routes only, and withdrawal from all forms of mineral entry, including oil and gas leasing (Seglund and Schnurr 2009, p. 55). The BLM-owned portion of the Northwest IPA's white-tailed prairie dog's gross range is considered high or medium potential for oil and gas development. The RMPs stipulating activities in this IPA are undergoing revisions to address oil and gas development and associated impacts (Seglund and Schnurr 2009, p. 61). We do not know if the RMP revisions will include conservation measures to minimize the effects of oil and gas development to white-tailed prairie dogs. At this time, we do not believe oil and gas development to be a significant threat to the species (see *Factor A.* Oil and Gas Exploration and Development, above). However, the ability to adequately monitor the species in energy development areas will be important for our long-term ability to minimize impacts.

In Utah, the BLM updated several field office RMPs in 2007. These updated RMPs included a stipulation to avoid surface-disturbing activities within 201 m (660 ft) of white-tailed prairie dog colonies in known prairie dog habitat (BLM 2008a, p. K:13). An exception may be granted if impacts can be mitigated or if there is no other reasonable location to develop the lease. This stipulation is included in the management plans that apply to white-tailed prairie dog colonies near Vernal, Richfield, Price, and Moab. No exceptions to this stipulation have yet been made in the Moab or Price field offices. Vernal field office staff report four exceptions to this stipulation. In all examples, disturbance was limited to the edge of a colony because no other alternatives were available (McDonald 2010, pers. comm.). The RMP governing activities in Rich County has not been amended to include a stipulation to protect white-tailed prairie dog habitat (Madsen 2009, pers. comm.). However, this area comprises a very small amount of occupied habitat in Utah, and any impacts to this area are unlikely to produce population-level effects.

In Wyoming, no extra protections are extended to white-tailed prairie dogs on BLM land, although control efforts (described below in *Factor E*) are not permitted except in the case of extensive resource damage or a threat to human health and safety (Keefe 2009, pers. comm.). Given the extent of oil and gas development in this State, lack of regulations on BLM land could be detrimental to the species, but the available evidence does not suggest that impacts are rising to a significant population-level threat (see *Factor A.* Oil and Gas Exploration and Development, above).

U.S. Forest Service (USFS)

The USFS considers the white-tailed prairie dog to be a Region 2 sensitive species, which requires USFS to consider the presence of the species and recommend mitigation when planning projects that may affect the species (Seglund and Schnurr 2009, p. 55). Controlling prairie dogs with toxicants is banned or closely controlled on USFS lands (Seglund *et al.* 2006, p. 62). The USFS manages less than 1 percent of the total species' gross range, so their management strategies are unlikely to impact the species rangewide significantly.

U.S. Fish and Wildlife Service

The Service manages over 500 National Wildlife Refuges and their satellites, but only about 7,975 ha (19,706 ac) fall within the white-tailed prairie dog's predicted range (Seglund *et al.* 2006 pp. 98, 104, 109). Management of this species is not addressed on these lands (Seglund *et al.* 2006, p. 62). Control of prairie dogs through toxicants on these lands is banned or closely controlled (Seglund *et al.* 2006, p. 62). Given the small amount (less than 1 percent) of predicted habitat managed by us, the available information does not suggest that our management practices are having a significant impact on the species.

National Park Service

The NPS preserves unimpaired the natural and cultural resources and values of the national park system for the enjoyment, education, and inspiration of this and future generations. This agency manages 13,393 ha (33,096 ac) of the white-tailed prairie dog's predicted range (Seglund *et al.* 2006, pp. 98, 104, 109). Management of this species is not addressed on these lands (Seglund *et al.* 2006, p. 62). Control of prairie dogs through toxicants on these lands is banned or closely controlled (Seglund *et al.* 2006, p. 62). Given the small amount (less than 1 percent) of predicted habitat managed by this agency, the available information does not suggest that NPS management practices are having a significant impact on the species.

Tribal Lands

The Bureau of Indian Affairs (BIA) administers 135,376 ha (334,523 ac) of land within the white-tailed prairie dog's predicted range (Seglund *et al.* 2006, pp. 98, 104, 109). Additional land owned by Tribes or Tribal members may have been included under the calculations for private land. We are unaware of any official policies from the BIA or Tribal councils regarding protection of white-tailed prairie dogs on BIA-administered or Tribally owned lands. Given the small amount (less than 1 percent) of predicted habitat managed by Tribes, the available informationdoes not suggest that BIA management practices are having a significant impact on the species.

In summary, Federal agencies have very few regulations for the protection of this species. The oil and gas surface use restrictions in the State of Utah likely help minimize the impacts of oil and gas development to white-tailed prairie dogs. The lack of protection measures for the species elsewhere may impact the species in the future; however, at this time the available information does not indicate that factor significantly threatens the species in the foreseeable future (see *Factor A.* Oil and Gas Exploration and Development, above). Poisoning also is banned or closely controlled on Federal lands (see *Factor E.* Poisoning, below, for further discussion).

Summary of Factor D

All States are involved in active management of the species. The States' conservation agreements and strategies, while not regulatory documents, contain direction to help mitigate threats to the species.

Potential threats for which regulatory mechanisms may play a role include oil and gas development, grazing, fire suppression, poisoning, and recreational shooting. We have determined that these factors do not rise to the level of a significant threat to the white-tailed prairie dog or its habitat rangewide.

Our evaluation determined that these land uses may impact white-tailed prairie dogs on a localized basis. Existing regulatory mechanisms are adequate to reduce impacts at these localized levels. For example, seasonal shooting closures in Colorado and Utah are protecting white-tailed prairie dog populations in some areas during sensitive breeding and rearing time periods. The BLM's RMPs in Utah contain recommendations to avoid surface disturbance during oil and gas development, although this does not mediate the impact of habitat fragmentation from this threat. In addition, the historical threat of poisoning was curtailed when Federal regulation of pesticides was enacted, and is generally not permitted on Federal lands.

Further coordination between State and Federal agencies would be of benefit to this species, particularly in managing habitat fragmentation. More management would be of benefit to the species, but the available evidence does not indicate that limited management strategies are a significant threat to the species.

We conclude that the best scientific and commercial information available indicates that the white-tailed prairie dog is not now, or in the foreseeable future, threatened by inadequate regulatory mechanisms to the extent that listing under the Act as an endangered or threatened species is warranted at this time.

Factor E. Other natural or manmade factors affecting its continued existence.

The following potential natural or manmade factors may affect the white-tailed prairie dog: (1) Poisoning, and (2) competition with Wyoming ground squirrels. These factors are further discussed below.

Poisoning

Poisoning of white-tailed prairie dogs has historically occurred throughout the species' gross range (Seglund *et. al* 2006, p. 63). The USDA Biological Survey and the Agriculture Appropriations Act of 1915 (38 Stat. 1111) planned and authorized a Westside Plan to eliminate prairie dogs across western rangelands (Oakes 2000 in Seglund and Schnurr 2009, p. 140). Prairie dog poisoning campaigns began in all States across the gross range of the white-tailed prairie dogs by 1919 (Seglund and Schnurr 2009, p. 140).

The population-level impact of this practice is difficult to quantify due to our lack of knowledge of the species' historical distribution and our lack of information on the exact locations of poisoning efforts (Seglund and Schnurr 2009, p. 140). However, the extent of poisoning for all prairie dog species was extensive. For example, from 1915 to 1964, Colorado poisoned an area of 9,380,191 ha (23,178,959 ac), which was occupied by the Gunnison, black-tailed, and white-tailed species of prairie dogs (Forrest 2002 *in* Seglund and Schnurr 2009, p. 141). Black-tailed prairie dogs were the main target of eradication campaigns due to their visibility on the landscape, but Gunnison and white-tailed prairie dogs also were poisoned (Seglund and Schnurr 2009, p. 140).

Poisoning in all States became less common after Federal regulation of pesticides was enacted (Seglund *et al.* 2006, p. iv). State and Federal agencies are rarely involved in control efforts unless human health and safety are at risk. The BLM, in particular, has a restriction against poisoning prairie dogs unless required for human health and safety or if resource damage meets specified requirements. Control of white-tailed prairie dogs in this manner is rare, with the agency only reporting one small area currently under control (Keefe 2009, pers. comm.). Individual landowners may still control prairie dogs on their private property.

Poison applications can be an effective means to control prairie dog population size. Baited poisons can result in 75 to 85 percent mortality, and fumigants can result in 95-percent mortality of prairie dog populations when properly applied (Seglund and Schnurr 2009, p.141). Although poisoning was historically widespread, there is no information available to indicate that poisoning occurs at more than a localized scale today. We were unable to quantify amount of toxicants sold for white-tailed prairie dog control. The States within the gross range of the white-tailed prairie dog do not compile records of pesticide sales. There are 103 licensed dealers of restricted use toxicants in Utah and 288 licensed dealers in Colorado. The WGFD staff surveyed Wyoming dealers in 2003, and determined that toxicant sales were too small to warrant tracking, with a total less than would be required to treat 400 ha (1,000 ac) per year (Grenier 2009, pers. comm.).

White-tailed prairie dog biology may provide some protection from poisoning. Because they inhabit less dense, widely distributed colonies, they

do not attract the amount of negative attention associated with black-tailed prairie dogs (Knowles 2002, p. 2; Grenier 2009, pers. comm.). In addition, the widespread nature of white-tailed prairie dog colonies makes control through the use of toxicants very labor intensive and unsuitable for widespread control. Black-tailed prairie dogs are known to rebound rapidly after control efforts (Seglund and Schnurr 2009, p. 140). White-tailed prairie dogs may have this capability as well (Seglund and Schnurr 2009, p. 140), particularly because they reproduce at a younger age than black-tailed prairie dogs.

In summary, today, poisoning generally occurs only on private land for site-specific control purposes rather than wide-spread population eliminations (Seglund *et al.* 2006, p. 65). White-tailed prairie dogs may have the capability to rebound from control efforts. Their scattered distribution and behavioral mechanisms may provide them with some protection from poisoning efforts. Therefore, we do not believe poisoning to be a significant threat to the species now or in the foreseeable future.

Competition

Competition may occur between Wyoming ground squirrels and white-tailed prairie dogs (Seglund and Schnurr 2009, p. 100). Their diets overlap and their burrows are often interspersed. Wyoming ground squirrels are found in some areas where plague has decimated Gunnison's prairie dogs (Seglund and Schnurr 2009, p. 100). However, white-tailed prairie dogs were observed to chase and kill Wyoming ground squirrels (Cooke 1990, p. 275). Given their size advantage and aggression, it seems unlikely that prairie dogs would be excluded by Wyoming ground squirrels (Hoogland 2009, pers. comm.). In addition, ground squirrels are vulnerable to plague, and epidemics reduce their numbers alongside prairie dogs. At this time there is no evidence to suggest that there may be other competitors or that competition is a threat to the white-tailed prairie dog.

Summary of Factor E

Available evidence does not suggest that control of prairie dogs through poisoning is a major or increasing threat to the while-tailed prairie dog. It seems unlikely that competition with Wyoming ground squirrels would threaten the species' persistence.

We conclude that the best scientific and commercial information available indicates that the white-tailed prairie dog is not now, or in the foreseeable future, threatened by other natural or manmade factors affecting its continued existence, to the extent that listing under the Act as an endangered or threatened species is warranted at this time.

Finding

As required by the Act, we considered the five factors in assessing whether the white-tailed prairie dog is endangered or threatened throughout all of its range. We have carefully examined the best scientific and commercial information available regarding the past, present, and future threats faced by the white-tailed prairie dog. We reviewed the petition, information available in our files, and other available published and unpublished information, and we consulted with recognized white-tailed prairie dog experts and other Federal, State, and tribal agencies.

In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat and we then attempt to determine how significant a threat it is. If the threat is significant, it may drive or contribute to the risk of extinction of the species such that the species warrants listing as endangered or threatened as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively is not sufficient to compel a finding that listing is appropriate; we require evidence that these factors are operative threats that act on the species to the point that the species meets the definition of endangered or threatened under the Act.

We identified and evaluated the risks of the present or threatened destruction, modification, or curtailment of the habitat or range of the white-tailed prairie dog: (1) Oil and gas exploration and development; (2) oil shale, tar sands, and other minerals, (3) renewable energy development—wind and solar; (4) urbanization; (5) agricultural land conversion; (6) grazing; (7) fire occurrence and suppression; (8) invasive plant species; and (9) climate change. While oil and gas development is impacting the species, we have no evidence that it will significantly threaten the species in the foreseeable future. We concluded that oil shale, tar sands, and other minerals; renewable energy development; urbanization; agricultural land conversion; grazing; fire suppression; invasive plant species; and climate change are not significant threats to the species now or in the foreseeable future. Based on our review of the best available information, we find that the present or threatened destruction, modification, or curtailment of the white-tailed prairie dog habitat or range is not a significant threat now or in the foreseeable future.

We identified and evaluated the risks from overutilization for commercial, recreational, scientific, or educational purposes. While shooting results in some individual mortality and may affect easily accessible colonies, available evidence does not indicate that the magnitude or intensity is enough to significantly threaten the species rangewide. Therefore, we conclude that the white-tailed prairie dog is not significantly threatened by overutilization for commercial, recreational, scientific, or educational purposes now or in the foreseeable future.

We found that plague impacts populations throughout the species' range. We determined that colonies and complexes persist in the post-plague environment, which demonstrates a rangewide resiliency to the disease. We determined that the species' life-history characteristics provide some protection from the spread of plague and that epizootic plague only affects a small portion of the range at one time. The threat of plague may decrease across the range with the impacts of management and climate change. Tularemia, monkey-pox, and West Nile virus are not considered threats to the species. Additionally, we note that while white-tailed prairie dogs are prey for numerous species, available information does not indicate that predation has an overall adverse effect on the species. Therefore, we find that neither disease nor predation is a significant threat to the species now or in the foreseeable future.

Based on our analysis of the existing regulatory mechanisms, we determined the States are actively involved in managing the species through conservation agreements and strategies. Although these agreements are not regulatory, they provide an important mechanism for conservation, monitoring, and research efforts. The existing regulatory mechanisms in place on State and Federal lands are limited. However, we determined in the evaluation that other threats would not adversely affect the white-tailed prairie

dog now or within the foreseeable future. Additionally, the white-tailed prairie dog receives some protection from shooting under State laws in Colorado and Utah, and from oil and gas development in Utah. Therefore, based on our review of the best available scientific information, we conclude that inadequacy of existing regulatory mechanisms is not a significant threat to the species now or in the foreseeable future.

We also assessed the potential risks to white-tailed prairie dogs from poisoning and interspecific competition, and we find that there is no evidence that indicates these factors significantly threaten the continued existence of white-tailed prairie dog now or in the foreseeable future.

We determined that energy development, urbanization, grazing, fire suppression, agricultural conversion, recreational shooting, poisoning, invasive plant species, and plague may impact the species in at least localized areas. White-tailed prairie dogs were impacted throughout history by each of these factors. We believe that, collectively, these activities have resulted in the presumed reduced abundance of white-tailed prairie dog from historical levels. We also believe that the ecological function of this species within western landscapes has been altered from its historical function. Many of these factors (grazing, urbanization, fire suppression, agricultural land use conversion, and poisoning) were at much greater magnitude in the past and are not currently impacting species with the same intensity. Other threats (oil and gas development, climate change, shooting, plague, and invasive plant species) can be expected to continue into the future. Of these, we consider plague and oil and gas development to have the greatest potential for cumulative impacts. Yet some of the most robust and resilient colonies exist in areas where both of these potential threats occur. Therefore, we do not believe these factors will cumulatively threaten the continued existence of white-tailed prairie dog now or in the foreseeable future.

Our review of the information pertaining to the five threat factors does not support a conclusion that there are independent or cumulative threats of sufficient imminence, intensity, or magnitude that would cause substantial losses of population distribution or viability of the white-tailed prairie dog that would result in the species being at risk of extinction. Therefore, we do not find that the white-tailed prairie dog is currently in danger of extinction (endangered), nor do we find it is likely to become endangered within the foreseeable future (threatened), throughout its range. Therefore, listing the species as endangered or threatened under the Act is not warranted at this time.

Distinct Vertebrate Population Segments

After assessing whether the species is endangered or threatened throughout its range, we next consider whether any distinct vertebrate population segment (DPS) exists and meets the definition of endangered or is likely to become endangered in the foreseeable future (threatened).

Under the Service's Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (61 FR 4722, February 7, 1996), three elements are considered in the decision concerning the establishment and classification of a possible DPS. These are applied similarly for additions to or removal from the Federal List of Endangered and Threatened Wildlife. These elements include:

(1) The discreteness of a population in relation to the remainder of the taxon to which it belongs;

(2) The significance of the population segment to the taxon to which it belongs; and

(3) The population segment's conservation status in relation to the Act's standards for listing, delisting (removal from the list), or reclassification (i.e., is the population segment endangered or threatened).

Discreteness

Under the DPS policy, a population segment of a vertebrate taxon may be considered discrete if it satisfies either one of the following conditions:

(1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation.

(2) It is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act.

The predicted range of the white-tailed prairie dog encompasses 13,066,887 ha (32,288,981 ac) (Seglund *et al.* 2006, p. 91). We do not consider any population segment of white-tailed prairie dog to be markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. As a colonial species, white-tailed prairie dogs are naturally distributed across the landscape in a discontinuous fashion. Occupied habitat changes rapidly, shifting on a landscape scale (Seglund *et al.* 2006, p. iii). The species spans Colorado, Utah, Wyoming, and Montana. Available information suggests while population areas within Colorado and Utah are not continuous with other populations areas within the same State, they are continuous between these States and with populations in Wyoming. Therefore, we do not consider any of these areas to be physically discrete. Because discontinuous distribution is the ''baseline'' condition for the species, for us to consider any geographic discontinuity as being evidence of marked separation (i.e., discreteness) under the DPS policy, we would need the best available information to indicate that the amount of discontinuity is over and above what is considered to be normal for the species.

We do not have detailed mapping of occupied habitat throughout the range of the species. We recognize the likely occurrence of some small, isolated white-tailed prairie dog colonies, but have very limited information available that identifies their locations. Therefore, we looked for other measures of discontinuity, such as measures of genetic or morphological differences as guided by the DPS policy, to determine whether any populations showed evidence of marked separation. The information available does not indicate that any ecological or physical factors have produced population segments that express any genetic or morphological discontinuity due to separation from other prairie dog populations. Gene flow via dispersal and migration may maintain genetic diversity in prairie dog species or help restore genetic diversity in prairie dog populations following plague epizootics (Trudeau *et al.* 2004, p. 206). The available information does not suggest that populations differ genetically or morphologically.

We determine, based on a review of the best available information, that no population segment of the white-tailed prairie dog meets the discreteness conditions of the 1996 DPS policy. Therefore, no population segment qualifies as a DPS under our policy and is not a listable entity under the Act.

The DPS policy is clear that significance is analyzed only when a population segment has been identified as discrete. Since we found that no population segment met the

discreteness element and, therefore, no population segments qualify as a DPS under the Service's DPS policy, we will not conduct an evaluation of significance.

Significant Portion of the Range Analysis

We evaluated the white-tailed prairie dog's predicted range in the context of whether any potential threats are concentrated in one or more areas of the projected range, such that if there were concentrated impacts, those white-tailed prairie dog populations might be threatened, and further, whether any such population or complex might constitute a significant portion of the range. The potential threat factors we evaluated for possible geographic concentration were the most substantial factor(s) affecting the species (in this case, plague and habitat fragmentation due to oil and gas development).

Plague

We regard sylvatic plague as the most substantial factor affecting the white-tailed prairie dog. The disease is present throughout the species' range. We consider the entire range of the species to be operating in a post-plague environment. We documented variation between colonies and complexes in their ability to maintain observed peaks of abundance. However, this variation occurred in every portion of the range, and was not concentrated in any geographic location. At this time, there is no evidence to suggest that plague affects portions of the range differently, or will in the foreseeable future.

Oil and Gas Development

Oil and gas development is a widespread land use within the species' range. Our analysis indicated a concentration of oil and gas activity in Uintah County, Utah, and the Northwest IPA, located in adjacent Moffat, Mesa, and Rio Blanco Counties in Colorado. A similar concentration can be visually observed in Sweetwater County, Wyoming (Hotze 2010, p. 11). However, some of the most robust and resilient colonies are found within these areas of concentrated development. The available evidence does not indicate that oil and gas development activities are negatively impacting the species (see *Factor A*. Oil and Gas Exploration and Development). Given these factors, we do not believe the regional concentration of oil and gas development is threatening the species in these portions of its range.

On the basis of this review, we have determined that the magnitude and imminence of threats do not indicate that the white-tailed prairie dog is in danger of extinction, or likely to become endangered, throughout all or a significant portion of its range, within the foreseeable future. The species also does not meet the elements of our 1996 DPS Policy that would result in a DPS designation for any segment of the population. We conclude that no Significant Portion of the Range (SPR) exists for the white-tailed prairie dog. We do not find that the species is in danger of extinction now, nor is it likely to become endangered within the foreseeable future, throughout all or a significant portion of its range. Therefore, listing the white-tailed prairie dog as endangered or threatened under the Act is not warranted at this time.

We request that you submit any new information concerning the status of, or threats to, the white-tailed prairie dog to our Utah Fish and Wildlife Office (see **ADDRESSES**) whenever it becomes available. New information will help us monitor the white-tailed prairie dog and encourage its conservation. If an emergency situation develops for the white-tailed prairie dog or any other species, we will act to provide immediate protection.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Utah Field Office (see **ADDRESSES**).

Authors

The primary authors of this document are the staff members of the Utah Field Office, West Valley City, Utah.

Authority

The authority for this section is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 14, 2010

Daniel M. Ashe,

Acting Director, Fish and Wildlife Service.

[FR Doc. 2010–12599 Filed 5–28–10; 8:45 am]

BILLING CODE 4310–55–S

Notices

Federal Register
Vol. 75, No. 104
Tuesday, June 1, 2010

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

Forest Service

Information Collection; Outreach Opportunity Questionnaire

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension with revision of a currently approved information collection, Outreach Opportunity Questionnaire.

DATES: Comments must be received in writing on or before August 2, 2010 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to the Northern Research Station, Attention: Judy Terrell, Forest Service, USDA, 11 Campus Boulevard, Suite 200, Newtown Square, PA 19073. Comments also may be submitted via e-mail to: *jterrell@fs.fed.us.*

The public may inspect comments received at USDA Forest Service, 11 Campus Boulevard, Suite 200, Newtown Square, PA 19073 during normal business hours. Visitors are encouraged to call ahead to 610–557–4257 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Judy Terrell, 610–557–4257. Individuals who use TDD may call the Federal Relay Service (FRS) at 1–800–877–8339, between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: *Title:* Outreach Opportunity Questionnaire.

OMB Number: 0596–0207.

Expiration Date of Approval: November 30, 2010.

Type of Request: Extension with revision.

Abstract:

This information collection is proposing to extend the collection of information from students attending local college and university career fairs regarding the effectiveness of the information provided by the Forest Service personnel on career opportunities in the Forest Service. The collection is necessary to evaluate and determine the effectiveness of the Forest Service Northern Research Station's (NRS) Civil Rights Outreach Program.

Forest Service Civil Rights personnel have utilized a postcard to collect evaluation information from students regarding presentations at career day events as well as at colleges and universities. Data received has appeared in reports provided to the Department of Agriculture, senior Forest Service officials, the NRS Director, and the NRS Civil Rights Diversity Committee. This information is a vital component in the analysis of Agency outreach efforts.

Estimate of Annual Burden: 10 minutes.

Type of Respondents: University/College students.

Estimated Annual Number of Respondents: 500.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 84 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) 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 the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: May 25, 2010.

Thelma J. Strong,

Acting Associate Deputy Chief, Business Operations.

[FR Doc. 2010–13090 Filed 5–28–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Forest Service

Mt. Hood and Willamette National Forests, Oregon; Cascade Crossing Transmission Project

AGENCY: Forest Service, USDA.

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

SUMMARY: Portland General Electric (PGE), an independent investor-owned utility regulated by the Oregon Public Utility Commission, is proposing to construct, maintain, and operate a new electric transmission system consisting of approximately 210 miles of single- and double-circuit 500 kilovolt (kV) transmission line from Boardman, Oregon to near Salem, Oregon. The proposed transmission line would cross Federal, Tribal, State, municipal, and private lands. Approximately 42 percent of the lands the transmission line would cross are administered by Federal agencies, including the Forest Service, Bureau of Land Management, Department of Defense, U.S. Army Corps of Engineers, and Bureau of Reclamation.

DATES: Comments concerning the scope of the analysis must be received by August 2, 2010. The draft environmental impact statement is expected August, 2011 and the final environmental impact statement is expected February, 2012.

ADDRESSES: Send written comments to Cascade Crossing Transmission Line Project; 1515 SW Fifth Avenue, Suite 1022, Portland, OR 97201–5449. Comments may also be sent via e-mail to *Comments@CascadeCrossing Project.com* or via facsimile to (888) 291–6460. The project Web site is located at *http://www.CascadeCrossing Project.com.*

It is important that reviewers provide their comments at such times and in such a way that they are useful to the Agency's preparation of the ETS. Therefore, comments should be provided prior to the close of the

comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

FOR FURTHER INFORMATION CONTACT: Kristy Boscheinen at (503) 668–1645, by e-mail at *kboscheinen@fs.fed.us,* or by postal mail at 16400 Champion Way, Sandy, OR 97055.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

On January 20, 2010, Portland General Electric (PGE) submitted an application for a special use permit to construct, operate, and maintain a 500kv transmission line across Forest Service-managed lands. On January 20, 2010 PGE also submitted an application for right of-way across BLM-managed lands. Under Section 501 of the Federal Land Policy and Management Act of 1976, there is a need for the Federal agencies to respond to applications for special use permits for rights-of-way.

PGE's purposes for proposing this transmission line are to relieve congestion on the present electric grid, provide additional capacity for transmission (including power generated from future renewable energy projects), and alleviate reliability constraints. Also, PGE believes this project would help respond to the State of Oregon's Renewable Portfolio Standard, which requires that the largest utilities and electricity service suppliers provide 15 percent of their power with renewable energy by 2015, 20 percent by 2020, and 25 percent by 2025. Finally, PGE believes there will be an increase in demand for electricity in the future in its service area, and that this line would meet that demand.

Proposed Action

PGE is proposing to construct, maintain, and operate a new electric transmission system consisting of approximately 210 miles of single- and double-circuit 500kV transmission line from Boardman, Oregon to near Salem, Oregon. The proposed transmission line would cross Federal, Tribal, State, municipal, and private lands. Approximately 42 percent of the lands the proposed line would cross are administered by Federal agencies including the Forest Service, Bureau of Land Management, Department of Defense, U.S. Army Corps of Engineers, Bureau of Reclamation, and Bureau of Indian Affairs.

In addition to the 210-mile transmission line, PGE has also proposed the construction of three new substations, expansion of two existing substations, fiber optic signal regeneration stations associated with the "smart" grid communication system, and permanent roads which would be used to access the substations, regeneration stations, and transmission line towers. As proposed, the right-of-way for the new transmission line would be 250 feet wide. 176 miles of the new line would be immediately adjacent to existing transmission lines. The Cascade Crossing Transmission Project is independent of any particular new generation project, and no new generation sources are proposed as part of this project. PGE is proposing to acquire the necessary approvals, rights-of-way, easements and permits in order to have the transmission line in service (transmitting electricity) by 2015.

Possible Alternatives

Two alternate routes have been preliminarily identified, but it has not been determined if the alternate routes will be considered as alternatives during the environmental analysis. One alternate route would follow the Westwide Energy Corridor as it crossed National Forest lands, then follow the existing Bonneville Power Administration (BPA) transmission lines through National Forest lands. The second alternative would follow the existing BPA transmission lines through the Confederated Tribes of Warm Springs Reservation and then through National Forest lands. Scoping will determine if the preliminarily identified alternate routes will be analyzed in detail or if they will be dropped from consideration. Scoping may also identify additional routes that may be considered as alternatives.

Lead and Cooperating Agencies

The Forest Service is the lead Federal agency for the Cascade Crossing Transmission Project, pursuant to the October 2009 Memorandum of Understanding Among the U.S. Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, Environmental Protection Agency, the Council on Environmental Quality, the Federal Energy Regulatory Commission, the Advisory Council on Historic Preservation, and the Department of the Interior, Regarding Coordination in Federal Agency Review of Electric Transmission Facilities on Federal Land. The Bureau of Land Management and the Oregon Department of Energy are cooperating agencies. The Forest Service has identified the Department of Defense, U.S. Army Corps of Engineers, and Bureau of Reclamation as additional potential cooperating agencies.

Responsible Official

The responsible official is Gary L. Larsen, Forest Supervisor, Mt. Hood National Forest.

Nature of Decision To Be Made

The Forest Service will sign a Record of Decision in cooperation with the other Federal land management agencies once the environmental analysis has been completed. The decision will be whether or not to issue a Special Use Permit and Right-of-way Grant to construct, operate, and maintain the Cascade Crossing Transmission Line across Federal lands. The decision will be subject to appeal under Forest Service appeal procedures at 36 CFR 215.

Authorization of this proposal may require amendments to one or more Forest Service or BLM land use plans. By this notice, the Forest Service is complying with the optional appeal procedures of plan amendments under transition procedures of 36 CFR 219.35(b)(2000) and BLM is complying with requirements in 43 CFR 1610.2(c) to notify the public of potential amendments to land use plans. If a Forest Plan Amendment or a Resource Management Plan Amendment is necessary, USFS and BLM will integrate the land use planning process with the NEPA analysis process for this project.

The Energy Facility Siting Council (EFSC) has received notice from PGE that PGE intends to apply for a Site Certificate. Oregon Department of Energy (ODOE), as staff for EFSC, will analyze the application and will provide information to EFSC to determine whether the project meets the State standards required in order to issue a Site Certificate for the line to be constructed, operated, and maintained.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. Five public scoping meetings will be held at the following locations, dates, and times:

Date and time	Location
Monday, June 21 4–7 p.m	Maupin, South Wasco County High School, 699 4th St.
Wednesday, June 23 4–7 p.m	Oregon City, Oregon City High School, 19761 S. Beavercreek Rd.
Thursday, June 24 4–7 p.m	Salem, McKay High School, 2440 Lancaster Dr., NE.
Tuesday, June 29 4–7 p.m	Mill City, Mill City Middle School, 450 SW. Evergreen
Thursday, July 1 4–7 p.m	Boardman, Port of Morrow County, 2 Marine Dr.

The scoping process will be conducted jointly with ODOE in order to reduce duplication with comparable State procedures.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Dated: May 17, 2010.

Gary L. Larsen,

Forest Supervisor.

[FR Doc. 2010–12920 Filed 5–28–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Alpine County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Alpine County Resource Advisory Committee (RAC) will hold a meeting.

DATES: The meeting will be held on June 15th, and will begin at 6 p.m. The meeting will be held in Alpine County at the Alpine Early Learning Center, 100 Foothill Road, Markleeville, CA 96120.

FOR FURTHER INFORMATION CONTACT: Daniel Morris, RAC Coordinator, USDA, Hurnboldt-Toiyabe National Forest, Carson Ranger District, 1536 S. Carson Street, Carson City, NV 89701 (775) 884–8140; E–Mail *danielmorris@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Update on recommended projects (2) Determine parameters and timeframes for next round of projects (3) Discuss Charter Renewal (4) Public Comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: May 21, 2010.

Genny E. Wilson,

Designated Federal Officer.

[FR Doc. 2010–12864 Filed 5–28–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Meeting; Federal Lands Recreation Enhancement Act (Title VIII, Pub. L. 108–447)

AGENCY: Pacific Southwest Region, Forest Service, U.S. Department of Agriculture.

ACTION: Notice of meeting.

SUMMARY: The Pacific Southwest Recreation Resource Advisory Committee (Recreation RAC) will hold a meeting in Mammoth Lakes, California. The purpose of this meeting is to conduct a field trip to view fee sites on the Inyo National Forest and to make recommendations for fee proposals for expanded amenity fees on the Inyo, Modoc, Plumas, Sequoia and Stanislaus National Forests and the San Joaquin River Gorge Management Area, Central California District, Bureau of Land Management, elimination of an expanded amenity fee on the Inyo National Forest, standard amenity fees on the Inyo National Forest and San Joaquin River Gorge Management Area, Central California District, Bureau of Land Management and special recreation permit, Dumont Dunes, California Desert District, Bureau of Land Management.

DATES: The meeting will be held June 23, 2010 from 8 a.m.–5 p.m. and June 24, 2010 from 8 am. to 2 p.m.

ADDRESSES: The meeting will be held at various sites on the Inyo National Forest on the first day and in the Mountain View Room, Sierra Nevada Lodge, 164 Old Mammoth Road, Mammoth Lakes, CA 93546 on the second day. Members of the public wishing to participate on the field trip will need to provide their own transportation. Send written comments to Marlene Finley, Designated Federal Official for the Pacific Southwest Region Recreation RAC, 1323 Club Drive, Vallejo, CA 94592, 707–562–8856 or *mfinley01@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Marlene Finley, Designated Federal Official, Pacific Southwest Region Recreation RAC, 1323 Club Drive, Vallejo, CA 94592.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service and Bureau of Land Management staff and Committee members. However, persons who wish to bring recreation fee matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. A public input session will be provided during the meeting and individuals who wish to address the Recreation RAC will have an opportunity at 9:30 a.m. on June 24. Comments will be limited to three minutes per person. The Recreation RAC is authorized by the Federal Land Recreation Enhancement Act, which was signed into law by President Bush in December 2004.

Dated: May 21, 2010.

Valerie Guardia,

Acting Designated Federal Official, Recreation RAC, Pacific Southwest Region.

[FR Doc. 2010–12821 Filed 5–28–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Gallatin County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Gallatin National Forest's Gallatin County Resource Advisory Committee will meet in Bozeman, Montana. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L 110–343) and in compliance with the Federal Advisory Committee Act. The purpose is to hold the first meeting of the newly formed committee.

DATES: The meeting will be held on June 15, 2010, and will begin at 2 p.m.

ADDRESSES: The meeting will be held at the Bozeman Public Library, Large Meeting Room, 626 East Main, Bozeman, MT. Written comments should be sent to Babete Anderson, Custer National Forest, 1310 Main Street, Billings, MT 59105. Comments may also be sent via e-mail to *branderson@fs.fed.us,* or via facsimile to 406–657–6222.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Custer National Forest, 1310 Main Street, Billings, MT 59105. Visitors are encouraged to call ahead to 406–657–6205 ext 239.

FOR FURTHER INFORMATION CONTACT: Babete Anderson, RAC coordinator, USDA, Custer National Forest, 1310 Main Street, Billings, MT 59105; (406) 657–6205 ext 239; E-mail *branderson@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Mountain Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: (1) Introductions of all committee members, replacement members and Forest Service personnel. (2) Selection of a chairperson by the committee members. (3) Receive materials explaining the process for considering and recommending Title II projects; and (4) Public Comment. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting.

Dated: May 17, 2010.

Chris Worth,

Deputy Forest Supervisor.

[FR Doc. 2010–12323 Filed 5–28–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

North Mt. Baker-Snoqualmie Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The North Mt. Baker-Snoqualmie (MBS) Resource Advisory Committee (RAC) will meet in Bellingham, Washington on June 14, 2010. The committee is meeting to: (1) Provide an orientation about Title II and the Federal Resource Advisory Committee; (2) elect the Committee Chair; and (3) present and prioritize 2009 proposed Title II projects.

DATES: The meeting will be held on Monday, June 14, 2010, from 9 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held at the Whatcom Parks and Recreation Building located at 3733 Mt. Baker Hwy, Bellingham, Washington 98226.

FOR FURTHER INFORMATION CONTACT: Jon Vanderheyden, District Ranger, Mt. Baker Ranger District, phone (360) 854–2601, e-mail *jvanderheyden@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. More information will be posted on the Mt. Baker-Snoqualmie National Forest Web site at *http://www.fs.fed.us/r6/mbs/projects/rac.shtml.*

Comments may be sent via e-mail to *jvanderheyden@fs.fed.us* or via facsimile to (360) 856–1934. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Mt. Baker Ranger District office at 810 State Route 20, Sedro-Woolley, Washington, during regular office hours (Monday through Friday 8 a.m.–4:30 p.m.).

Dated: May 19, 2010.

Jan L. Hollenbeck,

Acting Forest Supervisor.

[FR Doc. 2010–12709 Filed 5–28–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Application for NATO International Competitive Bidding

AGENCY: Bureau of Industry and Security.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 2, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Larry Hall, BIS ICB Liaison, (202) 482–4895, *lhall@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Opportunities to bid for contracts under the North Atlantic Treaty Organization (NATO) Security Investment Program (NSIP) are only open to firms of member NATO countries. NSIP procedures for international competitive bidding (AC/4–D/2261) require that each NATO country certify that their respective firms are eligible to bid on such contracts. This is done through the issuance of a "Declaration of Eligibility." The U.S. Department of Commerce, Bureau of Industry and Security (BIS) is the executive agency responsible for certifying U.S. firms. The BIS–4023P is the application form used to collect information needed to ascertain the eligibility of a U.S. firm. BIS will review applications for completeness and accuracy, and determine a company's eligibility based on its financial viability, technical capability, and security clearances with the U.S. Department of Defense.

II. Method of Collection

Submitted electronically or in paper form.

III. Data

OMB Control Number: 0694–0128.

Form Number(s): BIS–4023P.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 40.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 40.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have

practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 25, 2010

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–12989 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Foreign Availability Procedures and Criteria

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 2, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Larry Hall, BIS ICB Liaison, (202) 482–4895, *lhall@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This information is collected in order to respond to requests by Congress and industry to make foreign availability determinations in accordance with Section 768 of the Export Administration Regulations. Exporters are urged to voluntarily submit data to support the contention that items controlled for export for national security reasons are available-in-fact, from a non-U.S. source, in sufficient quantity and of comparable quality so as to render the control ineffective.

II. Method of Collection

Submitted electronically or in paper form.

III. Data

OMB Control Number: 0694–0004.

Form Number(s): None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2.

Estimated Time per Response: 255 hours.

Estimated Total Annual Burden Hours: 510.

Estimated Total Annual Cost to Public: $20.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 25, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–12988 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

Proposed Information Collection; Comment Request; Procedures for Considering Requests and Comments From the Public for Textile and Apparel Safeguard Actions on Imports From Peru

AGENCY: International Trade Administration (ITA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 2, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Robert Carrigg, Office of Textiles and Apparel, U.S. Department of Commerce, Telephone: 202–482–2573, Fax: 202–482–0858, E-mail: *Robert.Carrigg@trade.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Title III, subtitle B, section 321 through Section 328 of the United States-Peru Free Trade Agreement Implementation Act (the "Act") implements the textile and apparel safeguard provisions, provided for in Article 3.1 of the United States-Peru Free Trade Agreement (the "Agreement"). This safeguard mechanism applies when, as a result of the elimination of a customs duty under the Agreement, a Peruvian textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof to a U.S. industry producing a like or directly competitive article. In these circumstances, Article 3.1 permits the United States to increase duties on the imported article from Peru to a level that does not exceed the lesser of the

prevailing U.S. normal trade relations (NTR)/most-favored-nation (MFN) duty rate for the article or the U.S. NTR/MFN duty rate in effect on the day before the Agreement entered into force.

The Statement of Administrative Action accompanying the Act provides that the Committee for the Implementation of Textile Agreements (CITA) will issue procedures for requesting such safeguard measures, for making its determinations under Section 322(a) of the Act, and for providing relief under section 322(b) of the Act.

In Proclamation No. 8341 (74 FR 4103–4109, January 22, 2009), the President delegated to CITA his authority under Subtitle B of Title III of the Act with respect to textile and apparel safeguard measures.

CITA must collect information in order to determine whether a domestic textile or apparel industry is being adversely impacted by imports of these products from Peru, thereby allowing CITA to take corrective action to protect the viability of the domestic textile industry, subject to section 322(b) of the Act.

Pursuant to section 321(a) of the Act and section 9 of Presidential Proclamation 8341, an interested party in the U.S. domestic textile and apparel industry may file a request for a textile and apparel safeguard action with CITA. Consistent with long-standing CITA practice in considering textile safeguard actions, CITA will consider an interested party to be an entity (which may be a trade association, firm, certified or recognized union, or group of workers) that is representative of either: (A) A domestic producer or producers of an article that is like or directly competitive with the subject Peruvian textile or apparel article; or (B) a domestic producer or producers of a component used in the production of an article that is like or directly competitive with the subject Peruvian textile or apparel article.

In order for a request to be considered, the requestor must provide the following information in support of a claim that a textile or apparel article from Peru is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage or actual threat thereof, to a U.S. industry producing an article that is like, or directly competitive with, the imported article: (1) Name and description of the imported article concerned; (2) import data demonstrating that imports of a Peruvian origin textile or apparel article that are like or directly competitive with the articles produced by the domestic industry concerned are increasing in absolute terms or relative to the domestic market for that article; (3) U.S. domestic production of the like or directly competitive articles of U.S. origin indicating the nature and extent of the serious damage or actual threat thereof, along with an affirmation that to the best of the requester's knowledge, the data represent substantially all of the domestic production of the like or directly competitive article(s) of U.S. origin; (4) imports from Peru as a percentage of the domestic market of the like or directly competitive article; and (5) all data available to the requester showing changes in productivity, utilization of capacity, inventories, exports, wages, employment, domestic prices, profits, and investment, and any other information, relating to the existence of serious damage or actual threat thereof caused by imports from Peru to the industry producing the like or directly competitive article that is the subject of the request. To the extent that such information is not available, the requester should provide best estimates and the basis therefore.

If CITA determines that the request provides the information necessary for it to be considered, CITA will publish a notice in the **Federal Register** seeking public comments regarding the request. The comment period shall be 30 calendar days. The notice will include a summary of the request. Any interested party may submit information to rebut, clarify, or correct public comments submitted by any interested party.

CITA will make a determination on any request it considers within 60 calendar days of the close of the comment period. If CITA is unable to make a determination within 60 calendar days, it will publish a notice in the **Federal Register,** including the date it will make a determination.

If a determination under Section 322(b) of the Act is affirmative, CITA may provide tariff relief to a U.S. industry to the extent necessary to remedy or prevent serious damage or actual threat thereof and to facilitate adjustment by the domestic industry to import competition. The import tariff relief is effective beginning on the date that CITA's affirmative determination is published in the **Federal Register.**

Entities submitting requests, responses or rebuttals to CITA may submit both a public and confidential version of their submissions. If the request is accepted, the public version will be posted on the dedicated Peru Free Trade Agreement textile safeguards section of the Office of Textile and Apparel (OTEXA) Web site. The confidential version of the request, responses or rebuttals will not be shared with the public as it may contain business confidential information. Entities submitting responses or rebuttals may use the public version of the request as a basis for responses.

II. Method of Collection

When an interested party files a request for a textile and apparel safeguard action with CITA, ten copies of any such request must be provided in a paper format. If business confidential information is provided, two copies of a non-confidential version must also be provided.

III. Data

OMB Control Number: None.

Form Number(s): None.

Type of Review: Regular submission.

Affected Public: Individuals or households; business or other for-profit organizations.

Estimated Number of Respondents: 6 (1 for Request; 5 for Comments).

Estimated Time per Response: 4 hours for a Request; and 4 hours for each Comment.

Estimated Total Annual Burden Hours: 24.

Estimated Total Annual Cost to Public: $960.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 25, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–12985 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–959]

Certain Coated Paper Suitable For High–Quality Print Graphics Using Sheet–Fed Presses from the People's Republic of China: Amended Affirmative Preliminary Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The purpose of this amended affirmative preliminary determination is to correct significant ministerial errors in the preliminary determination, published on March 9, 2010, that countervailable subsidies are being provided to producers and exporters of certain coated paper suitable for high–quality print graphics using sheet–fed presses from the People's Republic of China ("PRC").

EFFECTIVE DATE: June 1, 2010.

FOR FURTHER INFORMATION CONTACT: David Neubacher, 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) 482–5823.

SUPPLEMENTARY INFORMATION:

Background

On March 9, 2010, we published our preliminary determination stating that countervailable subsidies are being provided to producers and exporters of coated paper from the PRC. *See Certain Coated Paper Suitable For High–Quality Print Graphics Using Sheet–Fed Presses from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 75 FR 10774 (March 9, 2010) ("*Preliminary Determination*"). On March 23, 2010, Appleton Coated LLC, NewPage Corporation, S.D. Warren Company d/b/a Sappi Fine Paper North America, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (collectively, "Petitioners") filed a timely allegation of significant ministerial errors contained in the Department's *Preliminary Determination*. No rebuttal comments were received. After reviewing the allegation, we have determined that the *Preliminary Determination* included significant ministerial errors. Therefore, in accordance with 19 CFR 351.224(e), we have made changes, as described below, to the *Preliminary Determination*.

Scope of the Investigation

The scope of this investigation consists of Coated Paper, which are certain coated paper and paperboard[1] in sheets suitable for high quality print graphics using sheet–fed presses; coated on one or both sides with kaolin (China or other clay), calcium carbonate, titanium dioxide, and/or other inorganic substances; with or without a binder; having a GE brightness level of 80 or higher;[2] weighing not more than 340 grams per square meter; whether gloss grade, satin grade, matte grade, dull grade, or any other grade of finish; whether or not surface–colored, surface–decorated, printed (except as described below), embossed, or perforated; and irrespective of dimensions.

Coated Paper includes: (a) coated free sheet paper and paperboard that meets this scope definition; (b) coated groundwood paper and paperboard produced from bleached chemi–thermo-mechanical pulp ("BCTMP") that meets this scope definition; and (c) any other coated paper and paperboard that meets this scope definition.

Coated Paper is typically (but not exclusively) used for printing multi–colored graphics for catalogues, books, magazines, envelopes, labels and wraps, greeting cards, and other commercial printing applications requiring high quality print graphics.

Specifically excluded from the scope are imports of paper and paperboard printed with final content printed text or graphics.

As of 2009, imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States ("HTSUS"): 4810.14.11, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.6000, 4810.14.70, 4810.19.1100, 4810.19.1900, 4810.19.2010, 4810.19.2090, 4810.22.1000, 4810.22.50, 4810.22.6000, 4810.22.70, 4810.29.1000, 4810.29.5000, 4810.29.6000, 4810.29.70. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Analysis of Alleged Significant Ministerial Error

A ministerial error is defined in 19 CFR 351.224(f) as "an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial." With respect to preliminary determinations, 19 CFR 351.224(e) provides that the Department "will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination. . ." A significant ministerial error is defined as an error, the correction of which, singly or in combination with other errors, would result in: (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the countervailable subsidy rate calculated in the original (erroneous) preliminary determination; or (2) a difference between a countervailable subsidy rate of zero (or *de minimis*) and a countervailable subsidy rate of greater than *de minimis* or vice versa. *See* 19 CFR 351.224(g).

We have determined that the *Preliminary Determination* contained ministerial errors with respect to Gold East Trading (Hong Kong) Company Limited, Gold East Paper (Jiangsu) Co., Ltd. and Gold Huasheng Paper Co., Ltd. (collectively, "Gold companies"). Correction of these ministerial errors results in the Gold companies' subsidy rate changing by more than five absolute points and not less than 25 percent of the originally calculated margin. Thus, the ministerial errors are significant pursuant to 19 CFR 351.224(g). *See* Memorandum to Susan Kuhbach, Director, Office 1, AD/CVD Operations, entitled, "Ministerial Error Allegations" (May 24, 2010) for the analysis performed. This memorandum is on file in the Department's Central Records Unit in Room 1117 of the main Department building.

Amended Preliminary Determination

Because the errors alleged by Petitioners regarding the countervailable subsidy rate calculation for the Gold companies are significant, we are amending the preliminary countervailing duty rate calculation for them pursuant to 19 CFR 351.224(e). In addition, the calculated All Others' rate in the *Preliminary Determination* was

[1] "'Paperboard' refers to Coated Paper that is heavier, thicker and more rigid than coated paper which otherwise meets the product description. In the context of Coated Paper, paperboard typically is referred to as 'cover,' to distinguish it from 'text.'"

[2] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off of a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade.

based on the simple average of the Gold companies' and Shandong Sun Paper Industry Joint Stock Co., Ltd.'s and its affiliate's, Yanzhou Tianzhang Paper Industry Co., Ltd., (collectively, "Sun Paper companies") subsidy rates. Thus, we have also amended the All Others' rate to account for the change in the Gold companies' subsidy rate. To that end, we calculated the simple average of the Gold companies' revised subsidy rate and the Sun Paper companies' subsidy rate, unchanged from the *Preliminary Determination*.

As a result of corrections of ministerial errors, the amended preliminary net countervailable subsidy rates are as follows:

Exporter/Manufacturer	Original Subsidy Rate	Amended Subsidy Rate
Gold East Paper (Jiangsu) Co., Ltd, Gold Huasheng Paper Co., Ltd., Gold East Trading (Hong Kong) Company Ltd., Ningbo Zhonghua Paper Co., Ltd., and Ningbo Asia Pulp & Paper Co., Ltd.	12.83	20.07
Shandong Sun Paper Industry Joint Stock Co., Ltd. and Yanzhou Tianzhang Paper Industry Co., Ltd.	3.92	3.92
All Others	8.38	12.00

Suspension of Liquidation

The collection of bonds or cash deposits and suspension of liquidation will be revised, in accordance with section 703(d) and (f) of the Act. Specifically, we will instruct U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation and to require a cash deposit or bond in the amounts indicated above, on all entries of coated paper from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

International Trade Commission Notification

In accordance with section 703(f) of the Act, we have notified the U.S. International Trade Commission ("ITC") of our amended affirmative preliminary determination. If our final countervailing duty determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threatening material injury to, the U.S. industry.

This determination is issued and published pursuant to sections 703(f) and 777(i)(1) of the Act and 19 CFR 351.224(e).

Dated: May 21, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–13068 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for July 2010

The following Sunset Reviews are scheduled for initiation in July 2010 and will appear in that month's Notice of Initiation of Five-Year Sunset Reviews.

	Department contact
Antidumping Duty Proceedings	
Polychloroprene Rubber from Japan (A–588–046) (3rd Review)	Dana Mermelstein (202) 482–1391.
Petroleum Wax Candles from the PRC (A–570–504) (3rd Review)	Jennifer Moats (202) 482–5047.
Countervailing Duty Proceedings	
No Sunset Review of countervailing duty orders is scheduled for initiation in July 2010.	

Suspended Investigations

No Sunset Review of suspended investigations is scheduled for initiation in July 2010.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) . The Notice of Initiation of Five-Year ("Sunset") Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: May 25, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–13061 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 37–2010]

Foreign-Trade Zone 38—Spartanburg County, SC; Application for Reorganization/Expansion under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the South Carolina State Ports Authority, grantee of FTZ 38, requesting authority to expand the zone and reorganize under the alternative site framework (ASF) adopted by the Board (74 FR 1170, 01/12/09; correction 74 FR 3987, 01/22/09). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new "usage-driven" FTZ sites for operators/users located within a grantee's "service area" in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on May 19, 2010.

FTZ 38 was approved by the Board on May 4, 1978 (Board Order 131, 43 FR 20526, 05/12/78), and expanded on November 9, 1994 (Board Order 715, 59 FR 59992, 11/21/94), on July 23, 1997 (Board Order 910, 62 FR 40797, 07/30/97), on January 8, 1999 (Board Order 1015, 64 FR 3064, 01/20/99), on July 21, 2005 (Board Order 1401, 70 FR 44559, 08/03/05), and on October 16, 2008 (Board Order 1583, 73 FR 63675, 10/27/08).

The current zone project includes the following sites: *Site 1* (20 acres)—Global Trade Center, 28 Global Drive, Greenville; *Site 2* (799 acres total)—International Transport Center, Victor Hill Rd., Greer, and Gateway International Business Center, Brookshire Rd. and SC Hwy. 101, Greer; *Site 3* (116 acres total)—Highway 290 Commerce Park, 201 Commerce Circle, Duncan, and Global Automotive Partners, 150 Parkway W., Duncan; *Site 4* (473 acres)—Wingo Corporate Park, 5675 N. Blackstock Rd., Spartanburg; *Site 5* (118 acres)—Key Logistics, 101 Michelin Dr., Laurens; *Site 6* (20 acres)—Lakeside Business Center, 2355 Hwy. 101 South, Greer; *Site 7* (19 acres)—ZF Lemforder, 191 Parkway West, Duncan; *Site 8* (88 acres)—Riverbend Business Center, US Hwy. 29 between I–85 and I–26, Spartanburg; *Site 9* (207 acres)—Corporate Center, 100 Corporate Dr., Spartanburg, and Bryant Business Park, 170 Landers Street, Spartanburg; *Site 10* (334 acres)—Interchange Commerce Park, John Dodd Rd. and I–26, Spartanburg; *Site 11* (51 acres)—Caliber Ridge Industrial Park, 125 Caliber Ridge Dr., Greer; and, *Site 12* (4 acres)—Industrial Warehousing, dba Product Action, 100 Fortis Dr., Duncan.

The grantee's proposed service area under the ASF would be Greenville, Spartanburg, Cherokee, Oconee, Union, Anderson, and Laurens Counties, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Greenville/Spartanburg Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize and expand its existing zone project to include existing Sites 2, 3, 4, 6, 9, 10, and 11 as "magnet" sites and existing Sites 1, 5, and 7 as "usage-driven" sites, as well as to remove Sites 8 and 12 and to remove 5 acres from Site 3 and 91 acres from Site 5. The ASF allows for the possible exemption of one magnet site from the "sunset" time limits that generally apply to sites under the ASF, and the applicant proposes that Site 2 be so exempted. The applicant is also requesting approval of the following "magnet" site:

Proposed Site 13 (318 acres)—VMI Logistics Park, Victor Hill Rd., Greer. Because the ASF only pertains to establishing or reorganizing a general-purpose zone, the application would have no impact on FTZ's 38 authorized subzones.

In accordance with the Board's regulations, Maureen Hinman of the FTZ staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address listed below. The closing period for their receipt is August 2, 2010. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to August 16, 2010).

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.* For further information, contact Maureen Hinman at *Maureen.Hinman@trade.gov* or (202) 482–0627.

Dated: May 19, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–13059 Filed 5–28–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket T–2–2010]

Foreign-Trade Zone 196 Temporary/Interim Manufacturing Authority ATC Logistics & Electronics (Cell Phone Kitting and Distribution); Notice of Approval

On March 30, 2010, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board filed an application submitted by the ATC Logistics & Electronics, operator of Site 2, FTZ 196, requesting temporary/interim manufacturing (T/IM) authority to process cell phones under FTZ procedures within Site 2, in Fort Worth, Texas.

The application was processed in accordance with T/IM procedures, as authorized by FTZ Board Orders 1347 (69 FR 52857, 8/30/04) and 1480 (71 FR 55422, 9/22/06), including notice in the **Federal Register** inviting public comment (75 FR 17691–17692, 4/7/2010). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval under T/IM procedures. Pursuant to the authority delegated to the FTZ Board Executive Secretary in the above-referenced Board Orders, the application is approved, effective this date, until May 18, 2012, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Dated: May 18, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–13054 Filed 5–28–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket Number: 100419191–0191–01]

RIN 0625–XA06

Elimination of Form ITA—362P, Information on Articles for Physically or Mentally Handicapped Persons Imported Duty-Free

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: Through this action, the Department of Commerce's International Trade Administration (ITA) notifies the public that Form ITA–362P, which importers of articles for the handicapped were required to complete in order to receive duty-free treatment, has been discontinued as of May 31, 2010. Form ITA–362P has been eliminated because the majority of the information obtained through this form is currently available to ITA through Customs and Border Protection's (CBP) Automated Commercial System (ACS), and therefore the form has become redundant. ITA reserves its right to request information from importers in addition to that available through an ACS data query, in the case that it must perform an adverse impact assessment pursuant to section § 1121(g) of the Omnibus Trade and Competitiveness Act of 1988.

ADDRESSES: Copies of this notice can be obtained from ITA at 1401 Constitution Ave., NW., Room 3720, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Questions about this notice can be directed to Callie Conroy at 202–482–0754 or via the Internet at *callie.conroy@trade.gov.*

Background: On May 21, 1952, the Agreement on the Important of Educational, Scientific and Cultural Materials (17 UST 1835; TIAS 6129; 131 UNTS 25), otherwise known as the "Florence Agreement," entered into force at the United Nations. Pursuant to the Florence Agreement, signatories agreed to allow the duty-free treatment of goods that were determined to facilitate the free exchange of knowledge and ideas. In 1976, the "Nairobi Protocol," a supplementary agreement to the Florence Agreement, expanded the scope of the Florence Agreement to include duty-free treatment of imports of articles for the use or benefit of physically or mentally handicapped persons, as well as for the blind.

To enact the Florence Agreement, including the Nairobi Protocol, in 1982, Congress passed the Educational, Scientific, and Cultural Materials Act of 1982 (Pub. L. 97–446, 96 Stat. 2346), which provided for duty-free treatment of "[a]rticles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons." This provision was implemented by Presidential Proclamation 5021, dated February 14, 1983 (48 FR 6883). In 1988, the Congress re-enacted the provisions implementing the Nairobi Protocol in § 1121 of the Omnibus Trade and Competitiveness Act of 1988 ("the Act"), Public Law 100–418, 102 Stat. 1107, as amended by section 9001(a)(17) of the Technical and Miscellaneous Revenue Act of 1988, Public Law 100–647. Section 1121 of the Act, along with Presidential Proclamation 5978 (54 FR 21187, May 12, 1989), implemented the Nairobi Protocol under subheadings 9817.00.92, 9817.00.94, and 9817.00.96, of the Harmonized Tariff Schedule of the United States (HTSUS), and became effective on January 1, 1989.

Section 1121(g) of the Act gives the President the ability to modify the tariff treatment of articles for the handicapped in the event that such treatment creates a "significant adverse impact on a domestic industry (or a portion thereof) manufacturing or producing a like or directly competitive article." The law directs the Secretaries of the Treasury (who at the time was the head of the U.S. Customs Service) and of Commerce to collect "adequate statistical information" in the case that a determination under § 1121(g) needs to be made. *See* Section 1121 (i) of the Act.

To implement § 1121(i) of the Act, ITA created and issued Form ITA–362P, Information on Articles for Physically or Mentally Handicapped Persons Imported Free of Duty. Through this form, ITA collects statistical information on duty-free imports of handicapped equipment. In order to obtain duty-free treatment for handicapped articles, importers were required to submit a paper copy of Form ITA–362P to both CBP and to ITA. The form required that the importer, *inter alia,* describe the imported articles, and indicate the HTSUS chapter subheading applicable to the import.

However, in reviewing the continued necessity of its forms, pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501–3521, ITA has determined that most of the information it required of importers through Form ITA–362P can be obtained through CBP's ACS. Further, pursuant to a Memorandum of Understanding between ITA and CBP, ITA has access to this information through a data query of the ACS, thus satisfying its responsibilities under § 1121(i) of the Act. Accordingly, ITA has determined that Form ITA–362P can be discontinued.

ITA notes that despite the discontinuance of Form ITA–362P, imports under this provision are still subject to the applicable laws and requirements for customs entry. Additionally, ITA reserves its right to request additional information from importers in the case that it must perform an adverse impact assessment pursuant to section § 1121(g) of the Act. Thus, if ITA finds that it requires additional information (apart from that available under an ACS query) to perform an adverse impact assessment, importers requesting duty-free treatment under this provision may be required to provide ITA with additional information *e.g.,* the type of entity that is purchasing or importing the article, and the ultimate disposition of the article.

Dated: May 24, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–13052 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–905]

Certain Polyester Staple Fiber From the People's Republic of China: Extension of Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("Department") is extending the time limit for the preliminary results of the administrative review of certain polyester staple fiber from the People's Republic of China ("PRC"). This review covers the period June 1, 2008, through May 31, 2009.

DATES: *Effective Date:* June 1, 2010.

FOR FURTHER INFORMATION CONTACT: Jerry Huang or Steven Hampton, 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) 482–4047 or (202) 482–0016, respectively.

Background

On July 29, 2009, the Department published a notice of initiation of the administrative review of the antidumping duty order on certain polyester staple fiber from the PRC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Review,* 74 FR 37690 (July 29, 2009). On February 9, 2010, the Department published a notice extending the deadline of the preliminary results by 101 days. *See Certain Polyester Staple Fiber from the People's Republic of China: Extension of Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 6352 (February 9, 2010). On February 16, 2010, the Department issued a memorandum that tolled the deadlines for all Import Administration cases by seven calendar days due to the recent Federal Government closure. *See* Memorandum for the Record from Ronald Lorentzen, DAS for Import Administration, Tolling of Administrative Deadlines as a Result of the Government Closure During the Recent Snowstorm, dated February 12, 2010. The preliminary results of this review are currently due no later than June 18, 2010.

Statutory Time Limits

In antidumping duty administrative reviews, section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this administrative review within the extended time limit because the Department requires additional time to analyze supplemental questionnaire responses and evaluate surrogate value submissions for purposes of the preliminary results.

Therefore, the Department is fully extending the time limit for completion of the preliminary results of this administrative review by 19 days. The preliminary results will now be due no later than July 7, 2010. The final results continue to be due 120 days after the publication of the preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: May 24, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–13055 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Time Limit for Final Results of the Fifth New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 1, 2010.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–2243.

SUPPLEMENTARY INFORMATION:

Background

On January 19, 2010, the Department of Commerce ("Department") issued the preliminary results of the fifth new shipper review for the period August 1, 2008, through January 31, 2009. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Preliminary Results of New Shipper Review*, 75 FR 4350 (January 29, 2010) ("Preliminary Results"). On February 12, 2010, the Department tolled administrative deadlines, including in the instant review, by one calendar week. See Tolling of Administrative Deadlines As a Result of the Government Closure during the Recent Snowstorm, dated February 12, 2010 ("Tolling Memo"). On February 16, 2010, the Department extended the deadlines for submission of surrogate value data, surrogate value rebuttal comments, case and rebuttal briefs. *See* Memorandum to the File, from Javier Barrientos, Senior Case Analyst, Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, dated February 16, 2010. On March 4, 2010, the Department extended the deadlines for submission of case and rebuttal briefs. *See* Memorandum to the File, from Javier Barrientos, Senior Case Analyst, Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, dated March 4, 2010. On April 26, 2010, the Department extended the deadline for the final results in the instant review by 30 days. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Time Limit for Final Results of the Fifth New Shipper Review*, 75 FR 26199 (April 26, 2010). The final results are currently due on May 26, 2010 (inclusive of the seven day extension per the Tolling Memo).

Extension of Time Limits for Final Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended ("Act"), and 19 CFR 351.214(i)(1) require the Department to issue the final results in a new shipper review of an antidumping duty order 90 days after the date on which the preliminary results are issued. The Department may, however, extend the deadline for completion of the final results of a new shipper review to 150 days if it determines that the case is extraordinarily complicated. *See* section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).

The Department determines that this new shipper review involves extraordinarily complicated methodological issues and is extending the deadline because it needs more time to analyze additional data placed on the record following the *Preliminary Results*. This additional data presents a number of complex factual and legal questions with regard to issues of surrogate country selection and the surrogate value of whole fish. Thus, the Department requires additional time to analyze these data and address these circumstances in these reviews.

Accordingly, because the Department requires additional time to complete the final results, we are extending the time for the completion of the final results of this review by 30 days, from the present due date of May 26, 2010, to June 25, 2010.

This notice is published in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).

Dated: May 19,2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–13067 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–963]

Certain Potassium Phosphate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Termination of Critical Circumstances Inquiry

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* June 1, 2010.

SUMMARY: On March 8, 2010, the Department of Commerce (Department) published its preliminary affirmative determination in the countervailing duty investigation of certain potassium phosphate salts from the People's Republic of China (PRC).[1] The period of investigation (POI) is January 1, 2008 through December 31, 2008. We invited interested parties to comment on our *Preliminary Determination,* and received comments from the domestic industry. We have made no changes for the final determination. We determine that countervailable subsidies are being provided to producers and exporters of certain potassium phosphate salts from the PRC. For information on the estimated countervailing duty rates, *please see* the "Suspension of Liquidation" section, below.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street, and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3148.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the announcement of the *Preliminary Determination,* which was published in the **Federal Register** on March 8, 2010. ICL Performance Products LP and Prayon, Inc. (Petitioners) filed a critical circumstances allegation on April 6, 2010. Subsequently, on April 29, 2010, the Department issued a preliminary affirmative critical circumstances determination. *See Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Countervailing Duty Investigation,* 75 FR 24575, 24577 (May 5, 2010).

On April 27, 2010, we received a case brief from Petitioners. We received no other case briefs and no rebuttal briefs. Petitioners' brief simply notes its agreement with the Department's preliminary countervailing duty determination, and reiterates its arguments in favor of an affirmative critical circumstances determination.[2] Petitioners put forth no arguments for revisions to our adverse facts available (AFA) methodology or to any other aspect of our determinations. On May 18, 2010, Petitioners withdrew their critical circumstances allegation.

Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the Act), the U.S. International Trade Commission (ITC) is required to determine pursuant to section 701(a)(2) of the Act whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a United States industry. On November 23, 2009, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States producing monopotassium phosphate (MKP) is materially injured or threatened with material injury, and industries in the United States producing dipotassium phospate (DKP) and tetrapotassium pyrophosphate (TKPP) are threatened with material injury by reason of allegedly subsidized imports from the PRC of subject merchandise. *See Investigations Nos. 701–TA–473 and 731–TA–1173 (Preliminary), Certain Sodium and Potassium Phosphate Salts from China,* 74 FR 61173 (November 23, 2009). The ITC found that there is no reasonable indication that an industry producing sodium tripolyphosphate (STPP) is materially injured by reason of imports alleged to be subsidized by the PRC. *Id.*

Scope of the Investigation

The phosphate salts covered by this investigation include anhydrous monopotassium phosphate (MKP), anhydrous dipotassium phospate (DKP) and tetrapotassium pyrophosphate (TKPP), whether anhydrous or in solution (collectively "phosphate salts").

TKPP, also known as normal potassium pyrophosphate, diphosphoric acid or tetrapotassium salt, is a potassium salt with the formula $K_4P_2O_7$. The CAS registry number for TKPP is 7320–34–5. TKPP is typically 18.7% phosphorus and 47.3% potassium. It is generally greater than or equal to 43.0% P_2O_5 content. TKPP is classified under heading 2835.39.1000, Harmonized Tariff Schedule of the United States (HTSUS).

MKP, also known as potassium dihydrogen phosphate, KDP, or monobasic potassium phosphate, is a potassium salt with the formula KH_2PO_4. The CAS registry number for MKP is 7778–77–0. MKP is typically 22.7% phosphorus, 28.7% potassium and 52% P_2O_5. MKP is classified under heading 2835.24.0000, HTSUS.

DKP, also known as dipotassium salt, dipotassium hydrogen orthophosphate or potassium phosphate, dibasic, has a chemical formula of K_2HPO_4. The CAS registry number for DKP is 7758–11–4. DKP is typically 17.8% phosphorus, 44.8% potassium and 40% P_2O_5 content. DKP is classified under heading 2835.24.0000, HTSUS.

The products covered by this investigation include the foregoing phosphate salts in all grades, whether food grade or technical grade. The products covered by this investigation include anhydrous MKP and DKP without regard to the physical form, whether crushed, granule, powder or fines. Also covered are all forms of TKPP, whether crushed, granule, powder, fines or solution.

For purposes of the investigation, the narrative description is dispositive, not the tariff heading, American Chemical Society, CAS registry number or CAS name, or the specific percentage chemical composition identified above.

Period of Investigation

The period for which we are measuring subsidies, *i.e.,* the period of investigation, is January 1, 2008 through December 31, 2008.

Comments on the Preliminary Determination

As noted above, the Department received a case brief from Petitioners only, and no rebuttal briefs. Petitioners' brief simply states their agreement with the Department's preliminary AFA determination, and reiterates their arguments for finding critical circumstances, but does not offer any arguments or suggestions for modifying our determinations or methodologies in any manner. Moreover, Petitioners' affirmative statements regarding critical circumstances have become moot now

[1] *See Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination,* 75 FR 10466 (March 8, 2010) (*Preliminary Determination*).

[2] Because the critical circumstances allegation was not filed until April 6, 2010, we were not able to issue our determination before the due date for case briefs. We did not receive any requests to extend the due date.

that they have withdrawn their allegation (*see* below). Therefore, given Petitioners' complete concurrence with the Department's positions, we have not addressed their comments specifically.

Use of Facts Available and Adverse Facts Available

For purposes of this final determination, we relied on AFA in accordance with sections 776(a) and (b) of the Act to determine the total countervailable subsidy rates. The government of the PRC and the three mandatory company respondents did not respond to the Department's questionnaire. Because of the failure to provide requested information, we determine that the use of facts otherwise available is required, pursuant to section 776(a)(2)(C), and that, because of this lack of cooperation, the application of an adverse inference is also warranted, pursuant to section 776(b) of the Act. In determining appropriate AFA rates for the programs under investigation, we applied the methodology developed in prior CVD investigations. A full discussion of our decision to apply AFA, and the methodology we followed, is presented in the *Preliminary Determination* in the section "Application of Facts Otherwise Available," and a detailed explanation of the AFA rates determined for each program can be found in Memorandum to the File, "Application of Adverse Facts Available Rates for Preliminary Determination," March 1, 2010. There is no new information or more recently calculated rates in final CVD determinations involving the PRC which warrant any revisions to the rates assigned in the *Preliminary Determination.*

Critical Circumstances

As noted above, Petitioners withdrew their critical circumstances allegation on May 18, 2010. Pursuant to this withdrawal, and because the Department has not "expended significant resources" in examining the allegation,[3] the Department determines there is no need to make a critical circumstances determination in this investigation and is terminating the critical circumstances inquiry. We will, therefore, instruct U.S. Customs and Border Protection (CBP) to terminate the suspension of liquidation, refund any cash deposits, and release any bond or other security previously posted, for entries from December 8, 2009 until March 8, 2010, the publication date of the *Preliminary Determination,* effectively rescinding our instructions to CBP pursuant to the preliminary affirmative critical circumstances determination.

Continuation of Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have assigned a subsidy rate to each of the three producers/exporters of the subject merchandise that were selected as mandatory company respondents in this CVD investigation. With respect to the all-others rate, section 705(c)(5)(A)(ii) of the Act provides that if the countervailable subsidy rates established for all exporters and producers individually investigated are determined entirely in accordance with section 776 of the Act, the Department may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated. In this case, the rate calculated for the three investigated companies is based entirely on facts available under section 776 of the Act. There is no other information on the record upon which to determine an all-others rate. As a result, we have used the AFA rate assigned to the three mandatory respondents as the all-others rate. This method is consistent with the Department's past practice. *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Argentina,* 66 FR 37007, 37008 (July 16, 2001); *see also, Final Affirmative Countervailing Duty Determination: Prestressed Concrete Steel Wire Strand From India,* 68 FR 68356 (December 8, 2003); *Sodium Nitrite from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 73 FR 38981 (July 8, 2008).

As a result, we have determined the following subsidy rates.

Producer/Exporter	Subsidy rate
Lianyungang Mupro Import Export Co Ltd	109.11 percent *ad valorem.*
Mianyang Aostar Phosphate Chemical Industry Co. Ltd	109.11 percent *ad valorem.*
Shifang Anda Chemicals Co. Ltd	109.11 percent *ad valorem.*
All-Others	109.11 percent *ad valorem.*

In accordance with section 703(d)(1)(A)(i) of the Act, we directed CBP to suspend liquidation of all entries of the subject merchandise from the PRC, which are entered or withdrawn from warehouse, for consumption on or after March 8, 2010, the date of publication of the *Preliminary Determination.* After the preliminary affirmative critical circumstances determination, we directed CBP to suspend liquidation of all entries on or after December 8, 2009 (encompassing the retroactive 90-day period) pursuant to section 703(e)(2) of the Act. As noted above, however, we will now instruct CBP to remove the suspension of liquidation for the 90-day pre-preliminary determination period, to refund any cash deposits and release any bond or other security previously posted within the 90-day period, but to continue collecting bonds or cash deposits on all entries, entered or withdrawn from warehouse, for consumption on or after March 8, 2010.

If the ITC issues a final affirmative injury determination, we will issue a countervailing duty order under section 706(a) of the Act, and instruct CBP to require cash deposits of the estimated countervailing duties. If the ITC determines that material injury to, threat of material injury to, or material retardation of, the domestic industry does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose

[3] *See e.g., Notice of Final Determination of Sales at Less Than Fair Value and Termination of Critical-Circumstances Investigation: Electrolytic Manganese Dioxide from Australia,* 73 FR 47586, 47586–87 (August 14, 2008), granting a post-preliminary determination request to withdraw a critical circumstances allegation.

such information, either publicly or under an Administrative Protective Order (APO), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: May 24, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–13070 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–962]

Certain Potassium Phosphate Salts from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 1, 2010.

SUMMARY: On March 16, 2010, the Department of Commerce (the "Department") published its notice of preliminary determination of sales at less than fair value ("LTFV") in the antidumping investigation of certain potassium phosphate salts ("salts") from the People's Republic of China ("PRC").[1] The period of investigation ("POI") is January 1, 2009, through June 30, 2009. We invited interested parties to comment on our preliminary determination of sales at LTFV. We made no changes for the final determination. We determine that salts from the PRC are being, or are likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

FOR FURTHER INFORMATION CONTACT: Katie Marksberry or Irene Gorelik, 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) 482–7906 or (202) 482–6905, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The Department published its Preliminary Determination on March 16, 2010. On April 2, 2010, Petitioners filed an allegation of critical circumstances.[2] On April 15, 2010, we received a case brief from Petitioners. We did not receive any case or rebuttal briefs from any other interested parties. On May 5, 2010, we published the preliminary affirmative determination of critical circumstances.[3] On May 18, 2010, Petitioners withdrew their allegation of critical circumstances.[4]

Tolling of Administrative Deadlines

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for this final determination is now May 24, 2010. *See* Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

Scope of Investigation

The phosphate salts covered by this investigation include anhydrous Monopotassium Phosphate (MKP), anhydrous Dipotassium Phosphate (DKP) and Tetrapotassium Pyrophosphate (TKPP), whether anhydrous or in solution (collectively "phosphate salts").

TKPP, also known as normal potassium pyrophosphate, Diphosphoric acid or Tetrapotassium salt, is a potassium salt with the formula $K_4P_2O_7$. The CAS registry number for TKPP is 7320–34–5. TKPP is typically 18.7% phosphorus and 47.3% potassium. It is generally greater than or equal to 43.0% P_2O_5 content. TKPP is classified under heading 2835.39.1000, HTSUS.

MKP, also known as Potassium dihydrogen phosphate, KDP, or Monobasic potassium phosphate, is a potassium salt with the formula KH_2PO_4. The CAS registry number for MKP is 7778–77–0. MKP is typically 22.7% phosphorus, 28.7% potassium and 52% P_2O_5. MKP is classified under heading 2835.24.0000, HTSUS.

DKP, also known as Dipotassium salt, Dipotassium hydrogen orthophosphate or Potassium phosphate, dibasic, has a chemical formula of K_2HPO_4. The CAS registry number for DKP is 7758–11–4. DKP is typically 17.8% phosphorus, 44.8% potassium and 40% P_2O_5 content. DKP is classified under heading 2835.24.0000, HTSUS.

The products covered by this investigation include the foregoing phosphate salts in all grades, whether food grade or technical grade. The product covered by this investigation includes anhydrous MKP and DKP without regard to the physical form, whether crushed, granule, powder or fines. Also covered are all forms of TKPP, whether crushed, granule, powder, fines or solution.

For purposes of the investigation, the narrative description is dispositive, and not the tariff heading, American Chemical Society, CAS registry number or CAS name, or the specific percentage chemical composition identified above.

Comments on the Preliminary Determination

On April 15, 2010, Petitioners submitted a case brief in which they agreed with the decisions the Department made in the *Preliminary Determination* and stated that the Department's use of adverse facts available ("AFA") in the *Preliminary Determination* was warranted and appropriate. No other interested party commented on the *Preliminary Determination*.

[1] *See Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 75 FR 12508 (March 16, 2010) ("*Preliminary Determination*").

[2] *See* Letter from Petitioners to the Department; regarding Certain Potassium Phosphate Salts from the People's Republic of China: Allegation of Critical Circumstances; dated April 2, 2010.

[3] *See Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation*, 75 FR 24572 (May 5, 2010) ("*Prelim Critical Circumstances Determination*").

[4] *See* letter to the Department from Petitioners, regarding Certain Potassium Phosphate Salts from the People's Republic of China: Withdrawal of Allegation of Critical Circumstances, dated May 18, 2010.

Separate Rates

In proceedings involving non–market-economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"), and Section 351.107(d) of the Department's regulations.

In the *Preliminary Determination*, we found that Wenda Co., Ltd., Yunnan Newswift Company Ltd., Tianjin Chengyi International Trading Co., Ltd., and Snow–Apple Group Limited, demonstrated their eligibility for, and were hence assigned, separate rate status. No party has commented on the eligibility of these companies for separate rate status. Therefore, for the final determination, we continue to find that the evidence placed on the record of this investigation by these companies demonstrates both a *de jure* and *de facto* absence of government control with respect to their exports of the merchandise under investigation. Thus, we continue to find that they are eligible for separate rate status.

Use of Facts Available, Adverse Facts Available and The PRC–Wide Rate

Section 776(a)(2) of the Act provides that if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party "promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information in the requested form and manner, together with a full explanation and suggested alternative form in which such party is able to submit the information," the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed "deficient" under section 782(d) if: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Furthermore, section 776(b) of the Act states that if the administering authority finds that an interested party has not acted to the best of its ability to comply with a request for information, the administering authority may, in reaching its determination, use an inference that is adverse to that party. The adverse inference may be based upon: (1) the petition, (2) a final determination in the investigation under this title, (3) any previous review under section 751 or determination under section 753, or (4) any other information placed on the record.

In the *Preliminary Determination*, the Department found that SiChuan Blue Sword Import & Export Co., Ltd. ("SiChuan Blue Sword") did not respond to our requests for information and was therefore part of the PRC–wide entity. Additionally, in the *Preliminary Determination*, the Department found that SD BNI(LYG) Co. Ltd. ("SD BNI"), who was selected as a mandatory respondent and failed to submit the information required, would not receive a separate rate and would remain part of the PRC–wide entity. In the *Preliminary Determination* we treated PRC exporters/producers, that did not respond to the Department's request for information as part of the PRC–wide entity because they did not demonstrate that they operate free of government control. No additional information has been placed on the record with respect to these entities, SiChuan Blue Sword, or SD BNI after the *Preliminary Determination*.

The PRC–wide entity has not provided the Department with the requested information; therefore, pursuant to section 776(a)(2)(A) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC–wide rate. As noted above, section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold–Rolled Flat–Rolled Carbon–Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). *See also*, Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103–316, vol. 1, at 870 (1994) ("SAA"). We find that, because the PRC–wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate for the PRC–wide entity.

Because we begin with the presumption that all companies within a NME country are subject to government control and because only the companies listed under the "Final Determination Margins" section below have overcome that presumption, we are applying a single antidumping rate - the PRC–wide rate - to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. *See*, *e.g.*, *Synthetic Indigo from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000). The PRC–wide rate applies to all entries of merchandise under consideration except for entries from Wenda Co., Ltd., Yunnan Newswift Company Ltd., Tianjin Chengyi International Trading Co., Ltd., and Snow–Apple Group Limited, which are listed in the "Final Determination Margins" section below.

Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information, rather than on

information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the SAA as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise."[5] The SAA provides that to "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value.[6] The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.[7] To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.[8]

As total AFA the Department preliminarily selected the rate of 95.40 from the Petition.[9] Petitioners' methodology for calculating the export price and normal value ("NV") in the Petition is discussed in the *Initiation Notice*.[10] At the *Preliminary Determination*, because there were no margins calculated for the mandatory respondents, to corroborate the 95.40 percent margin used as AFA for the China–wide entity, to the extent appropriate information was available, we affirmed our pre–initiation analysis of the adequacy and accuracy of the information in the petition.[11] During our pre–initiation analysis, we examined evidence supporting the calculations in the petition and the supplemental information provided by Petitioners prior to initiation to determine the probative value of the margins alleged in the petition. During our pre–initiation analysis, we examined the information used as the basis of export price and normal value ("NV") in the petition, and the calculations used to derive the alleged margins. Also during our pre–initiation analysis, we examined information from various independent sources provided either in the petition or, based on our requests, in supplements to the petition, which corroborated key elements of the export price and NV calculations.[12]

Similarly, for the final determination, we have also corroborated our AFA margin by affirming our pre–initiation analysis. Because no parties commented on the selection of the PRC–wide rate, we continue to find that the margin of 95.40 percent has probative value. Accordingly, we find that the rate of 95.40 percent is corroborated within the meaning of section 776(c) of the Act.

Critical Circumstances

On April 2, 2010, Petitioners submitted an allegation of critical circumstances with respect to the merchandise under consideration. On March 5, 2010, we issued the *Preliminary Critical Circumstances Determination*, stating that we had reason to believe or suspect critical circumstances exist with respect to imports of salts from the PRC. As noted above, Petitioners withdrew their critical circumstances allegation on May 18, 2010. Pursuant to this withdrawal, and because the Department has not "expended significant resources" in examining the allegation,[13] the Department determines there is no need to make a critical circumstances determination in this investigation and is terminating the critical circumstances inquiry. We will instruct U.S. Customs and Border Protection ("CBP") to terminate the suspension of liquidation and refund any cash deposits and release any bond or other security previously posted for all imports of subject merchandise entered, or withdrawn from warehouse, for consumption between December 16, 2009, which is 90 days prior to the date of publication of the *Preliminary Determination*, and March 15, 2010.

Final Determination Margins

We determine that the following percentage weighted–average margins exist for the following entities for the POI:

Exporter	Supplier	Weighted–Average Margin
Snow–Apple Group Limited	Chengdu Long Tai Biotechnology Co., Ltd.	69.58
Tianjin Chengyi International Trading (Tianjin) Co., Limited	Zhenjiang Dantu Guangming Auxiliary Material Factory	69.58
Tianjin Chengyi International Trading (Tianjin) Co., Limited	Sichuan Shifang Hongsheng Chemicals Co., Ltd.	69.58
Wenda Co., Ltd.	Thermphos (China) Food Additive Co., Ltd	69.58
Yunnan Newswift Company Ltd.	Guangxi Yizhou Yisheng Fine Chemicals Co., Ltd.	69.58
Yunnan Newswift Company Ltd.	Mainzhu Hanwang Mineral Salt Chemical Co., Ltd.	69.58
Yunnan Newswift Company Ltd.	Sichuan Shengfeng Phosphate Chemical Co., Ltd.	69.58
PRC–Wide[14]		95.40

[14] The PRC-wide rate includes Sichuan Blue Sword Import and Export Co., Ltd., and SD BNI (LYG) Co., Ltd.

[5] *See* SAA at 870.

[6] *See id.*

[7] *See id.*

[8] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

[9] *See* Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Sodium and Potassium Phosphate Salts from the People's Republic of China, dated September 24, 2009.

[10] *See Certain Sodium and Potassium Phosphate Salts from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 74 FR 54024 (October 21, 2009), ("*Initiation Notice*").

[11] *See* Antidumping Investigation Initiation Checklist: Certain Sodium and Potassium Phosphate Salts ("Initiation Checklist").

[12] *See id.*

[13] *See Notice of Final Determination of Sales at Less Than Fair Value and Termination of Critical-Circumstances Investigation: Electrolytic Manganese Dioxide from Australia*, 73 FR 47586, 47586-87 (August 14, 2008), granting a post-preliminary determination request to withdraw a critical circumstances allegation.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing CBP to continue to suspend liquidation of all imports of subject merchandise entered or withdrawn from warehouse, for consumption for the PRC–wide entity and the Separate Rate Recipients on or after March 16, 2010. We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies based on the estimated weighted–average dumping margins shown above.

These suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the merchandise under investigation. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the merchandise under investigation entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 24, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–13071 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 100513224–224–01 I.D. GF001]

NOAA's Office of Ocean Exploration and Research; Fiscal Year 2011 Ocean Exploration of the Aleutian Trench

AGENCY: Office of Ocean Exploration and Research (OER) Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of funding availability.

SUMMARY: The Office of Ocean Exploration and Research (OER) is seeking pre-proposals and full proposals to support its mission, consistent with NOAA's Strategic Plan, to search, investigate, and document poorly-known and unknown areas of the Aleutian Trench, through interdisciplinary exploration, and to advance and disseminate knowledge of the ocean environment and its physical, chemical, and biological resources. Competitive Ocean Exploration proposals will be bold, innovative and interdisciplinary in their approach. NOAA OER anticipates a total of approximately $1,000,000 will be available through this announcement.

DATES: Completed pre-proposals must be received by 5 pm (EDT) on July 1, 2010. Full proposal submissions must be received by 5 p.m. (EDT) on September 10, 2010. Applications received after the above deadlines will not be considered.

ADDRESSES: Pre-proposals must be submitted by either (1) e-mail at *OAR.OE.FAQ@noaa.gov,* or (2) hard-copy to ATTN: Dr. Nicolas Alvarado, NOAA Office of Ocean Exploration & Research, SSMC III, 10th Floor, 1315 East West Highway, Silver Spring, Maryland 20910. For e-mail submissions, please put your last name in the subject heading along with "OE Pre-proposal," *e.g.,* "Smith OE Pre-proposal." Adobe PDF format is preferred. No facsimile pre-proposals will be accepted.

Full proposals must be submitted through Grants.gov. Applicants without Internet access may submit hard-copies to: ATTN: Dr. Nicolas Alvarado, NOAA Office of Ocean Exploration & Research, SSMC III, 10th Floor, 1315 East West Highway, Silver Spring, Maryland 20910. No e-mail or facsimile full proposal submissions will be accepted from applicants.

The required cover sheet for pre-proposals may be obtained through the OER Office Web site at: *http://www.explore.noaa.gov/research-funding-opportunities.* Application forms for full proposals are available through *http://www.Grants.gov.* For applicants without Internet access, hard copies of the cover sheet and the full proposal application package can be obtained via mail at NOAA Office of Ocean Exploration and Research, 1315 East West Highway, SSMC III, 10th Floor, Silver Spring, Maryland 20910, or requested by phone at (301) 734–1015.

FOR FURTHER INFORMATION CONTACT: For further information contact the NOAA Office of Ocean Exploration and Research at (301) 734–1015 or submit inquiries via e-mail to the Frequently Asked Questions address: *OAR.OE.FAQ@noaa.gov.* E-mail inquiries should include the Principal Investigator's name in the subject heading. Inquiries can be mailed to: ATTN: Dr. Nicolas Alvarado, NOAA Office of Ocean Exploration and Research, 1315 East-West Highway SSMC III, 10th Floor, R/OER Silver Spring, Maryland 20910.

SUPPLEMENTARY INFORMATION: *Electronic Access:* The full text of the full funding opportunity (FFO) announcement for this program can be accessed via the Grants.gov Web site at *http://www.grants.gov.* The announcement will also be available by contacting the program officials identified under **FOR FURTHER INFORMATION CONTACT**. Applicants must comply with all requirements contained in the FFO announcement.

Statutory Authority: 33 U.S.C. 3403(a)(4).

Program Description: The Office of Ocean Exploration and Research (OER) is seeking pre-proposals and full proposals to support its mission, consistent with NOAA's Strategic Plan, to search, investigate, and document poorly-known and unknown areas of the Aleutian Trench, through interdisciplinary exploration, and to advance and disseminate knowledge of the ocean environment and its physical, chemical, and biological resources. Competitive Ocean Exploration (OE) proposals will be bold, innovative and interdisciplinary in their approach.

Specifically, the OER program intends to provide 60 days of UNOLS Global Class ship-time for operations in the Aleutian Trench. These 60 days will

focus on preliminary mapping of the East-West extent of the axis of the trench which resides in the U.S. Exclusive Economic Zone. In addition to mapping, ship operations can include, but are not limited to, the deployment or towing of sensors and instrumentation packages. This announcement is intended to solicit proposals that can augment the survey operations of the Global Class vessel with minimal interference to the primary survey mission, or proposals for work on other vessels that can operate in conjunction with the Global Class vessel. Only exploratory proposals will be funded, any other kind of project will not be reviewed.

Applicants are encouraged to visit the Ocean Explorer Web site (*http://www.oceanexplorer.noaa.gov*) to familiarize themselves with past and present OER-funded activities. The office priorities for this opportunity support NOAA's mission support goal of: Ecosystems—Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management.

Funding Availibility: For Fiscal Year (FY) 2011, OER anticipates a total of approximately $1,000,000 will be available through this announcement. Depending on the quality and quantity of proposals received, OER anticipates supporting approximately 2–4 awards through this solicitation, resulting in an average award level of approximately $250,000–$500,000, including analysis and publication. OE is currently working with other NOAA program offices, Federal institutions, and public and private organizations to design this expedition, including developing a consistent approach to gather, organize, and process data and information. Once proposals have been selected, OE will work with the PIs to plan an integrated expedition that will optimize ship and asset schedules. The OER Director may hold-over select proposals submitted for 2011 funding for consideration in 2012. The amount of funding available through this announcement is subject to the final FY11 appropriation for the Office of Ocean Exploration and Research. Publication of this announcement does not obligate NOAA to fund any specific project or to obligate all or any part of available funds. There is no guarantee that sufficient funds will be available to initiate or continue research activities where funding has been recommended by OER. The exact amount of funds that OER may recommend be granted will be determined in pre-award negotiations between the applicant and NOAA representatives. Future opportunities for submitting proposals may be available and will depend on OER funding levels.

Eligibility: Eligible applicants are institutions of higher education; other nonprofits; commercial organizations; foreign governments; organizations under the jurisdiction of foreign governments; international organizations; State, local and Indian Tribal governments; and other Federal agencies. **Please Note:** Before non-NOAA applicants may be funded, they must demonstrate that they have legal authority to receive funds from another Federal agency that is in excess of their appropriation. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

Cost Sharing Requirements: This program does not have any cost-sharing requirements.

Preparation of Pre-proposals: Applicants are required to submit a two-page pre-proposal application before submitting a full proposal. Applicants must also attach a cover sheet for the pre-proposal, which may be obtained through the OER Office Web site. Please see section IV.B.1. of the FFO for more information on the contents of the pre-proposal. The purpose of a pre-proposal is to evaluate an applicant's proposal and to provide feedback on the viability of the project. An applicant is free to submit a full proposal regardless of the result of the OER Director's evaluation.

Evaluation and Selection Procedures: The general evaluation criteria and selection factors that will be applied to pre-proposals and full proposals for this funding opportunity are summarized below. Further information about the evaluation criteria and selection factors can be found in the full funding opportunity announcement.

Evaluation Criteria for Projects

i. Pre-Proposal Evaluation Criteria

The OER Director, in consultation with the Office staff, will evaluate pre-proposals using the following criteria: (1) Importance, Relevance and Applicability of Proposal to the OER Goals and thematic priorities (see Section I.A. Office & Notice Objectives and Section I.B. Office Priorities & Guidance of the FFO announcement for more information); (2) Scientific and Technical Merit, (3) Overall qualifications of applicants, (4) Project Costs, (5) Logistical feasibility (*e.g.,* ship or equipment availability), and (6) Consistency with the priorities of this announcement. These factors are described in more detail below and in Section V.A.ii. "Full Proposal Evaluation Criteria" of the FFO.

ii. Full Proposal Evaluation Criteria

The following criteria, with the corresponding weight value, will be used to review full proposals: 1. Importance/Relevance and Applicability of Proposal to OER Goals (40%): This criterion ascertains whether there is intrinsic value in the proposed work and relevance to appropriate NOAA, international, regional, State, or local activities. For the OER review process this includes the degree to which the proposal addresses and supports OER's mission, objectives, themes and priorities (*see* Section I.A. Office & Notice Objectives, and Section I.B. Office Priorities & Guidance contained in the FFO). A central aspect of this criteria is whether the proposed effort is exploratory in nature (expanding the breadth of knowledge) as opposed to a research focus (expanding the depth of knowledge on any particular topic). 2. Scientific and Technical Merit (40%): This criterion ascertains whether the approach is technically sound and/or innovative, whether the methods are appropriate, and whether there are clear project goals and objectives. For the OER review process, in addition to the scientific, and/or technical merit of the effort, review criteria include whether: (a) The effort is interdisciplinary with suitable plans and methods, (b) the anticipated results (as appropriate, scientific, technical, historical, cultural, societal or economic) will have high downstream impact, *e.g.,* leading to the revision of existing paradigms, the formulation of new paradigms or new frontiers of knowledge or activity, and (c) plans for preservation, documentation, and sharing of data, multimedia, specimen collections are adequately and clearly outlined. 3. Overall qualifications of applicants (10%): This ascertains whether the applicant(s) possesses the necessary education, experience, training, facilities and administrative resources to accomplish the project. For the OER review process this includes (a) the qualifications of the applicant(s), (b) the strength, diversity and depth of any partnership to accomplish the work proposed, and (c) the applicant's prior OER award performance, including timely publication of results, if applicable. 4. Project Costs (10%): This criterion evaluates the budget to determine whether it is realistic and commensurate with the project needs and time-frame. For the OER review process this includes the reasonableness of project costs, relative to the scope and impact of work proposed and the

available funds. 5. Outreach and education (no points): This criterion assesses whether the project provides a focused and effective education and outreach strategy regarding NOAA's mission to protect the Nations natural resources. This criterion is not used in this competition.

Review and Selection Process

Upon receipt of a pre-proposal application, the OER Director, after consultation with OER staff, will evaluate each pre-proposal using the Pre-Proposal Evaluation Criteria, and make the decision whether to encourage or discourage the applicant from submitting a full proposal. A recommendation from the OER Director that discourages the submission of a full proposal does not preclude the applicant from submitting the full proposal.

Once a full proposal is received by NOAA, an initial administrative review is conducted to determine compliance with requirements and completeness of the application. Proposals determined to be in compliance and complete will be subjected to peer-review. Peer reviewers shall rate the individual proposals using the evaluation criteria and percentage weights provided above and provide summary comment. Both Federal and non-Federal experts in the field may be used in the peer-review process, which may include external mail reviews and/or a peer-review panel. Peer-review panelists will not be asked to reach consensus on individual proposals. Based on the individual external mail reviewer scores, summary comments, and summaries and scores by the panelists, if a peer-review panel is used, the OER Senior Scientist, after consultation with appropriate OER staff, will make funding recommendations to the Selecting Official, who is the OER Director. In making the final selections, the OER Director will award in rank order unless the proposal is justified to be selected out of rank order based upon one or more of the selection factors below and as further detailed in section V.C. of the FFO.

Selection Factors for Projects: The Selecting Official shall award in the rank order unless the proposal is justified to be selected out of rank order based on the following factors. 1. Availability of funding. 2. Balance/distribution of funds: a. Geographically (This includes ship availability). b. by type of institutions. c. by type of partners. d. by research areas. e. by project types. 3. Whether this project duplicates other projects funded or considered for funding by NOAA or other agencies. 4. Office priorities and policy factors (as described in Section I.B of the FFO). 5. Applicants prior award performance. 6. Partnerships and/or participation of targeted groups. 7. Adequacy of information necessary for NOAA staff to make a NEPA determination and draft necessary documentation before recommendations for funding are made to the Grants Officer.

Intergovernmental Review: Applications under this notice are subject to Executive Order 12372, "Intergovernmental Review of Programs." Applicants must contact their State's Single Point of Contact (SPOC) to find out about and comply with the State's process under EO 12372. The names and addresses of the SPOC's are listed in the Office of Management and Budget's Web site: *http://www.whitehouse.gov/omb/grants/spoc.html.*

Limitation of Liability: In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

National Environmental Policy Act (NEPA): NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA Federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: *http://www.nepa.noaa.gov/,* including our NOAA Administrative Order 216–6 for NEPA, *http://www.nepa.noaa.gov/NAO216_6_TOC.pdf,* and the Council on Environmental Quality implementation regulations, *http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm.* Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (*e.g.,* the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for not selecting an application. In some cases, if additional information is required after an application is selected, funds can be withheld by the Grants Officer, under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements: The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of February 11, 2008 (73 FR 7696), are applicable to this solicitation.

Paperwork Reduction Act: This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, and SF–LLL and CD–346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866: This notice has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism): It has been determined that this notice does not contain policies with federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/Regulatory Flexibility Act: Prior notices and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements for the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: May 25, 2010.

Mark E. Brown,

Chief Financial Officer/Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2010–12967 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV92

Marine Mammals; File No. 14610

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that the Alaska Department of Fish and Game (ADFG), Division of Wildlife Conservation, Juneau, AK (Principal Investigator: Robert Small, Ph.D.) has been issued a permit to conduct research on marine mammals.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Carrie Hubard, (301)713–2289.

SUPPLEMENTARY INFORMATION: On April 20, 2010, notice was published in the **Federal Register** (75 FR 20565) that a request for a permit to conduct research on beluga whales (*Delphinapterus leucas*), endangered bowhead whales (*Balaena mysticetus*), gray whales (*Eschrictius robustus*), and endangered humpback whales (*Megaptera novaeangliae*) had been submitted by the above-named applicant. The requested permit has been issued for the beluga whale and gray whale projects under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216). A decision on the bowhead whale and humpback whale projects has been deferred pending completion of consultation under section 7 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*).

The permit is valid through May 31, 2015, for research activities including aerial surveys for beluga whales, capture of beluga whales for instrument attachment and sample collection, remote biopsy of beluga whales, and remote biopsy and instrument attachment for gray whales. Research may occur in waters of the Bering, Chukchi, and Beaufort Seas in Alaska to determine population abundance, stock structure, feeding areas and other important habitats, migration routes, behavior relative to human disturbance, and to genetically identify individuals to determine survival and calving intervals.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: May 26, 2010.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–13045 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XT64

NOAA's Arctic Vision and Strategy; Comment Period Extension

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Request for comments.

SUMMARY: NOAA wishes to ensure its Arctic Vision and Strategy document reaches the broadest possible audience and allows adequate time for review, and therefore is extending the public comment period by fifteen days.

The Arctic has profound significance for climate and functioning of ecosystems around the globe. The region is particularly vulnerable and prone to rapid change. Increasing air and ocean temperatures, thawing permafrost, loss of sea ice, and shifts in ecosystems are evidence of widespread and dramatic ongoing change. As a result, critical environmental, economic, and national security issues are emerging, many of which have significant impacts for human lives, livelihoods, and coastal communities. Though NOAA has numerous and diverse capabilities that support these emerging issues, a strategic approach that leverages NOAA's existing priorities and strengths, as well as those of our national and international partners, is needed. This document provides a high-level framework and six strategic goals to address NOAA's highest priorities in the region. It is based upon assumptions that the region will: continue to experience dramatic change; become more accessible to human activities; and, be a focus of increasing global strategic interest.

DATES: Comments must be submitted by June 25, 2010.

ADDRESSES: Submit comments by one of the following methods—

- Electronic Submissions: strategic.planning@noaa.gov.
- Mail: National Oceanic and Atmospheric Administration, Office of Program Planning and Integration, 1315 East-West Highway, Room 15749, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Tracy Rouleau, Office of Program Planning and Integration, at *strategic.planning@noaa.gov* or (301) 713–1622 x187.

SUPPLEMENTARY INFORMATION: The original document published at 75 FR 25843, May 10, 2010; to view the document in its entirety, go to *http://www.arctic.noaa.gov/*.

NOAA invites comments on its: (a) vision for the Arctic; and (b) six strategic goals and five-year strategies for the Arctic.

Dated: May 25, 2010.

Laura K. Furgione,

Assistant Administrator, Office of Program Planning and Integration, National Oceanic and Atmospheric Administration.

[FR Doc. 2010–13043 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–NW–S

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution

Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended ("the Act"), may request, in accordance with section 351.213 of the Department of Commerce's ("the Department") regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection ("CBP") data for U.S. imports during the period of review ("POR"). We intend to release the CBP data under Administrative Protective Order ("APO") to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 20 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within 10 calendar days of publication of the **Federal Register** initiation notice.

Opportunity To Request a Review: Not later than the last day of June 2010,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in June for the following periods:

	Period of review
Antidumping Duty Proceedings	
Japan:	
Carbon and Alloy Seamless Standard, Line Pressure Pipe (Over 4½ Inches), A–588–850	6/1/09–5/31/10
Carbon and Alloy Seamless Standard, Line Pressure Pipe (Under 4½ Inches), A–588–851	6/1/09–5/31/10
Hot-Rolled Carbon Steel Flat Products, A–588–846	6/1/09–5/31/10
South Korea: Polyethylene Terephthalate (PET) Film, A–580–807	6/1/09–5/31/10
Spain: Chlorinated Isocyanurates, A–469–814	6/1/09–5/31/10
Taiwan:	
Helical Spring Lock Washers, A–583–820	6/1/09–5/31/10
Stainless Steel Butt-Weld Pipe Fittings, A–583–816	6/1/09–5/31/10
The People's Republic of China:	
Apple Juice Concentrate, Non-Frozen, A–570–855	6/1/09–5/31/10
Artist Canvas, A–570–899	6/1/09–5/31/10
Chlorinated Isocyanurates, A–570–898,	6/1/09–5/31/10
Color Television Receivers, A–570–884	6/1/09–6/2/09
Folding Metal Tables and Chairs, A–570–877	6/1/09–5/31/10
Furfuryl Alcohol, A–570–835	6/1/09–5/31/10
Polyester Staple Fiber, A–570–905	6/1/09–5/31/10
Silicon Metal, A–570–806	6/1/09–5/31/10
Sparklers, A–570–804	6/1/09–5/31/10
Tapered Roller Bearings, A–570–601	6/1/09–5/31/10
Countervailing Duty Proceedings	
None.	
Suspension Agreements	
Russia: Ammonium Nitrate, A–821–811	6/1/09–5/31/10

In accordance with section 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

[1] Or the next business day, if the deadline falls on a weekend, Federal holiday or any other day when the Department is closed.

[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. *See also* the Import Administration Web site at *http://ia.ita.doc.gov.*

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i), a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of June 2010. If the Department does not receive, by the last day of June 2010, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures "gap" period, of the order, if such a gap period is applicable for the POR.

This notice is not required by statute but is published as a service to the international trading community.

Dated: May 25, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–13063 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

Foreign-Trade Zone 64—Jacksonville, FL; Site Renumbering Notice

FTZ 64 was approved by the FTZ Board (the Board) on December 29, 1980 (Board Order 170, 46 FR 1330, 01/06/81) and expanded on September 20, 1985 (Board Order 312, 50 FR 40209, 10/02/85), on December 24, 1986 (Board Order 337, 52 FR 1214, 01/12/87), on October 29, 1991 (Board Order 540, 56 FR 56627, 11/06/91), and on October 7, 2008 (Board Order 1579, 73 FR 61781, 10/17/08).

FTZ 64 currently consists of 7 "sites" totaling some 1,378 acres in the Jacksonville, Florida area. The current update does not alter the physical boundaries that have previously been approved, but instead involves an administrative renumbering of existing Site 3 to separate unrelated, non-contiguous sites for record-keeping purposes.

All sites are located in Jacksonville, Florida. Under this revision, the site list for FTZ 64 will be as follows: Site 1 (67 acres)—within the Jacksonville International Airport at Pecan Park and Terrell Roads; Site 2 (43 acres)—warehouse facility located at 2201 North Ellis Road; Site 3 (809 acres)—JPA Blount Island Terminal Complex, 9620 Dave Rawls Boulevard; Site 4 (200 acres)—within the International Tradeport Complex on Airport Road; Site 5 (4 acres)—warehouse facility located at 1505 Dennis Street; Site 7 (47 acres)—warehouse facility located at the Westlake Industrial Park, 9767 Pritchard Road; Site 8 (75 acres)—located at One Imeson Park Boulevard, within the central western portion of the Imeson International Industrial Park; and, Site 9 (133 acres)—JPA Talleyrand Docks and Terminal Facility, at 2085 Talleyrand Avenue. Site 6 has expired.

For further information, contact Maureen Hinman at *Maureen.Hinman@trade.gov* or (202) 482–0627.

Dated: May 20, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–13056 Filed 5–28–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2010–OS–0034]

Defense Transportation Regulation, Part IV

AGENCY: United States Transportation Command (USTRANSCOM), DoD.

ACTION: Notice; extension of comment period.

SUMMARY: DoD extends the public comment period of a notice concerning the Defense Personal Property Program (DP3) Phase III Final-Draft Business Rules. DoD has received a request to extend the comment period beyond its current 60-day comment period. Upon considering this request, DoD extends the comment deadline for an additional 30 days: From June 1, 2010, to July 1, 2010. No further extensions will be considered due to the timelines associated with funding and programming future Phase III capabilities.

DATES: Comments must be received on or before July 1, 2010.

ADDRESSES: Do not submit comments directly to the point of contact under **FOR FURTHER INFORMATION CONTACT** or mail your comments to any address other than what is shown below. Doing so will delay the posting of the submission. Request comments be submitted in the identified matrix-format posted with the business rules. You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Teague, United States Transportation Command, TCJ5/4–PI, 508 Scott Drive, Scott Air Force Base, IL 62225–5357; (618) 229–1985.

SUPPLEMENTARY INFORMATION: A notice concerning the Defense Personal Property Program (DP3) Phase III Final-

Draft Business Rules was published on April 1, 2010 (75 FR 16445), with a comment period ending date of June 1, 2010. After receiving a request to extend the comment period, DoD has decided to extend it for an additional 30 days through July 1, 2010. No further extensions will be considered due to the timelines associated with funding and programming future Phase III capabilities.

Dated: May 26, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–12999 Filed 5–28–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2010–0021]

Preferred Supplier Program (PSP); Correction

AGENCY: Department of the Navy, DoD.

ACTION: Notice of Proposed Policy Letter; correction.

SUMMARY: The Department of the Navy published a document in the **Federal Register** (FR Doc. 2010–12349) of May 24, 2010, concerning the establishment of a preferred supplier program. The document contained some incorrect information.

FOR FURTHER INFORMATION CONTACT: Clarence Belton, 703–693–4006 or *clarence.belton@navy.mil.*

Correction

In the **Federal Register** (FR Doc. 2010–12349) of May 24, 2010, beginning on page 28788, in the second column, correct the **DATES** and **ADDRESSES** captions, and on page 28789, in the first column, third paragraph from the top, correct the following to read:

DATES: DON invites interested parties from both the public and private sectors to provide comments to be considered in the formulation of the final policy letter. In particular, DON encourages respondents to offer their views as discussed below, in Section C, "Solicitation of Public Comment."

Interested parties should submit comments, in writing, to the address below, on or before July 23, 2010.

ADDRESSES: Comments may be submitted by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov.

E-mail: preferredsupplier@navy.mil.

Facsimile: 703–614–9394.

Mail: DASN (A&LM), ATTN: Clarence Belton, 1000 Navy Pentagon, Room BF992, Washington, DC 20350–1000.

Instructions: Please submit comments only and cite "Proposed DON PSP Policy Letter" in all correspondence. All comments received will be posted, without change or redaction, to *http://www.regulations.gov,* so commenters should not include information that they do not wish to be posted (for example, personal or business-confidential).

* * * * *

During each fiscal year, DASN (A&LM) shall reassess and rate the top 25 DON contractors. The top 25 DON contractors will be determined by the value of contract awards for the most recent fiscal year. Other contractors may apply to join the PSP. DASN (A&LM) shall evaluate all applicants currently eligible for assessment in CPARS using the same process as it does to evaluate the top 25 contractors. DASN (A&LM) will establish a 30-day application period that will begin no later than October 1, annually.

* * * * *

Dated: May 24, 2010.

A. M. Vallandingham,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. C1–2010–13010 Filed 5–28–10; 8:45 am]

BILLING CODE 3810–FF–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice of public meeting for EAC Board of Advisors.

DATE AND TIME: Wednesday, June 16, 2010, 9 a.m.–5 p.m. and

Thursday, June 17, 2010, 9 a.m.–5:30 p.m. and

Friday, June 18, 2010, 9 a.m.–12 Noon.

PLACE: Phoenix Park Hotel, 520 North Capitol Street, NW., Washington, DC 20001, phone number (202) 638–6900.

PURPOSE: The U.S. Election Assistance Commission (EAC) Board of Advisors, as required by the Help America Vote Act of 2002, will meet to receive updates on EAC program activities. The Board will receive updates on Voting System Testing and Certification programs, including UOCAVA Pilot Program Voting Systems. The Board will receive a presentation by the National Institute of Standards and Technology on UOCAVA Voting Systems Threat Analysis. The Board will receive updates on research and studies, including draft election management guidelines: chapters on Technology in Elections, Elections Office Administration and Accessibility. The Board will receive an update on an EAC Clearinghouse. The Board will receive updates on the EAC Grants programs. The Board will hear committee reports, elect officers and consider other administrative matters.

Members of the public may observe but not participate in EAC meetings unless this notice provides otherwise. Members of the public may use small electronic audio recording devices to record the proceedings. The use of other recording equipment and cameras requires advance notice to and coordination with the EAC's Communications Office.*

* View EAC Regulations Implementing Government in the Sunshine Act.

This meeting will be open to the public.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, telephone: (202) 566–3100.

Gracia M. Hillman,

Commissioner, U.S. Election Assistance Commission.

[FR Doc. 2010–13114 Filed 5–27–10; 11:15 am]

BILLING CODE 6820–KF–P

ELECTION ASSISTANCE COMMISSION

Cancellation Notice of a Sunshine Act Meeting

AGENCY: United States Election Assistance Commission (EAC).

ACTION: Notice to cancel EAC public meeting.

SUMMARY: The U.S. Election Assistance Commission has cancelled the EAC Public Meeting scheduled for Thursday, May 27, 2010, 10 a.m. to 3 p.m. EDT. The meeting was announced in a sunshine notice that was published in the **Federal Register** on Friday, May 21, 2010 in Volume 75, Number 98.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 2010–13115 Filed 5–27–10; 11:15 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD10–12–000]

Improving Market and Planning Efficiency Through Improved Software; Notice of Agenda and Procedures for Staff Technical Conference

May 24, 2010.

This notice establishes the agenda and procedures for the staff technical conference to be held on June 9, 2010 and June 10, 2010 to discuss issues related to power system expansion planning models and software. The technical conference will be held from 8 a.m. to 5:30 p.m. (EDT) on June 9, 2010, and from 8 a.m. to 4:30 p.m. (EDT) on June 10, 2010 at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in the Commission Meeting Room. All interested persons are invited to attend, and registration is not required.

The agenda for this conference is attached. The presentations will be technical in nature, and approximately 20 minutes in length with 5 to 10 minutes for questions. Equipment will be available for computer presentations. Presenters who wish to include comments, presentations, or handouts in the record for this proceeding should file their comments with the Commission. Comments may either be filed on paper or electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.*

A free Webcast of this event is available through *http://www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *http://www.ferc.gov's* Calendar of Events and locating this event in the calendar. The event will contain a link to its Webcast. The Capitol Connection provides technical support for the free Webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or call (703) 993–3100.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

For further information about this conference, please contact:

Eric Krall (Technical Information), Office of Energy Policy and Innovation, (202) 502–6214, *Eric.Krall@ferc.gov.*

Tom Dautel (Technical Information), Office of Energy Policy and Innovation, (202) 502–6196, *Thomas.Dautel@ferc.gov.*

Kimberly D. Bose,

Secretary.

Agenda for AD10–12 Staff Technical Conference on Planning Models and Software Federal Energy Regulatory Commission

June 9, 2010

June 9, 2010	
8 a.m	Richard O'Neill, FERC—Welcome and Introduction.
	Session A: Current Approaches to Planning.
8:20 a.m	Henry Chao, NYISO.
	Brad Nickell, Western Electricity Coordinating Council.
	John Lawhorn, Midwest ISO.
	Steve Herling, PJM.
	Lisa Barton, American Electric Power.
	Kip Sikes, Idaho Power and Northern Tier Transmission Group.
11:30 a.m	Session B: Existing Planning Model Software.
	Jinxiang Zhu, ABB.
	Devin Van Zandt, GE.
12:30 p.m	Lunch.
1:30 p.m	Norm Richardson, Ventyx.
	John Condren, PowerGEM.
2:45 p.m	Session C: Computational Approaches.
	Jean-Paul Watson, Sandia National Laboratory.
	Robert Bixby, Gurobi Optimization.
3:45 p.m	Session D: Special Topics in Planning Models.
	Bryan Palmintier, Massachusetts Institute of Technology.
	Marija Ilic, Carnegie Mellon.
	Feng Zhao, ISO–NE.
5:30 p.m	Richard O'Neill, FERC—Day 1 Conclusion.
June 10, 2010	
8 a.m	Richard O'Neill, FERC—Day 2 Welcome.
8:05 a.m	Session E: Variable Energy Resources in Planning Models.
	Walter Short, National Renewable Energy Laboratory.
	Loren Toole, Los Alamos National Laboratory.
	Vladimir Koritarov, Argonne National Laboratory.
11:30 a.m	Lunch.
12:30 p.m	Ross Guttromson, Pacific Northwest National Laboratory.
1 p.m	Session F: Current Approaches to Planning.
	Gaurav Karandikar, Eastern Interconnection Reliability Assessment Group.
	(ERAG)—Multiregional Modeling Working Group (MMWG).
1:30 p.m	Session G: Special Topics in Planning Models.
	Alex Rudkevich, Charles River Associates.
	Vladimir Koritarov, Argonne National Laboratory.
	Sarah Ryan, Iowa State University.
	Stephen S. Miller, Commonwealth Associates Inc.
	Ira Shavel, Barclay Gibbs, and Ralph Luciani, Charles River Associates.

4:30 p.m	Richard O'Neill, FERC—Conclusion and Next Steps.

[FR Doc. 2010–12990 Filed 5–28–10; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13682–000]

Natural Currents Energy Services, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

May 24, 2010.

On May 5, 2010, Natural Currents Energy Services, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Hoffmans Marina Tidal Energy Project, which would be located on the Manasquan River, in Monmouth County, New Jersey. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

Natural Currents proposes to develop this project, in conjunction with Hoffmans Marina, to install and operate in-stream tidal turbines to power the office building and marina on site. Natural Currents Red Hawk ™ Tidal In-Stream Energy Conversion (TISEC) modules will generate electricity in the free flow of the tides. The initial installations would consist of ten in-stream 20-kilowatt (kW) turbines with an initial peak output of 200 kW.

Applicant Contact: Mr. Roger Bason, Natural Currents Energy Services, LLC, 24 Roxanne Boulevard, Highland, NY 12561; phone (845) 691–4009.

FERC Contact: John M. Mudre, (202) 502–8902.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the "eFiling" link. For a simpler method of submitting text only comments, click on "Quick Comment." For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13682) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–12991 Filed 5–28–10; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13725–000]

Natural Currents Energy Services, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

May 24, 2010.

On May 6, 2010, Natural Currents Energy Services, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Highlands New Jersey Tidal Energy Project, which would be located on the Shrewsbury River, in Monmouth County, New Jersey. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

Natural Currents proposes to develop this project, in conjunction with various marinas as well as private, public and commercial properties within the project footprint, potentially including 42 South Bay Ave, LLC, Twin Lights Marina, Barhs Marina, and other property owners in the Highlands, NJ area. The purpose of this project is to install and operate in-stream tidal turbines to power the office buildings and marinas within the site. Natural Currents Red Hawk ™ Tidal In-Stream Energy Conversion (TISEC) modules would generate electricity in the free flow of the tides. The initial installations will consist of twenty in-stream 150-kilowatt (kW) turbines with an initial peak output of 3,000 kW.

Applicant Contact: Mr. Roger Bason, Natural Currents Energy Services, LLC, 24 Roxanne Boulevard, Highland, NY 12561; phone (845) 691–4009.

FERC Contact: John M. Mudre, (202) 502–8902.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the "eFiling" link. For a simpler method of submitting text only comments, click on "Quick Comment." For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13725) in the docket number field to access the

document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–12994 Filed 5–28–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13727–000]

City of Santa Fe, NM; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, Protests, Recommendations, and Terms and Conditions

May 24, 2010.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 13727–000.

c. *Date filed:* May 10, 2010.

d. *Applicant:* City of Santa Fe, New Mexico.

e. *Name of Project:* Santa Fe Canyon Hydroelectric Project.

f. *Location:* The proposed Santa Fe Canyon Hydroelectric Project would be located on a pipeline in the City of Santa Fe's water distribution system located in Santa Fe County, New Mexico. The land on which all the project structures are located is owned by the applicant.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Dale Lyons, Water Resources Coordinator, City of Santa Fe Water Division, 801 West San Mateo Road, Santa Fe, New Mexico 87505; telephone (505) 955–4204.

i. *FERC Contact:* Linda Stewart, telephone (202) 502–6680, and e-mail address *linda.stewart@ferc.gov.*

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing responsive documents:* Due to the small size and location of the proposed project in a closed system, as well as the resource agency consultation letters filed with the application, the 60-day timeframe specified in 18 CFR 4.43(b) for filing all comments, motions to intervene, protests, recommendations, terms and conditions, and prescriptions is shortened to 30 days from the issuance date of this notice. All reply comments filed in response to comments submitted by any resource agency, Indian tribe, or person, must be filed with the Commission within 45 days from the issuance date of this notice.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Project:* The proposed Santa Fe Canyon Hydroelectric Project would consist of: (1) A proposed new concrete vault containing one turbine generating unit having an installed capacity of 90 kilowatts; and (2) appurtenant facilities. The project would have an estimated annual generation of 394,900 kilowatt-hours that would be sold to a local utility.

m. This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number, here P–13727, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for review and reproduction at the address in item h above.

n. *Development Application*—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a competing development application. A notice of intent must be served on the applicant(s) named in this public notice.

p. *Protests or Motions to Intervene*—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

q. All filings must (1) Bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "COMMENTS", "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

r. *Waiver of Pre-filing Consultation:* On February 2, 2010, the applicant requested the agencies' support to waive the Commission's consultation requirements under 18 CFR 4.38(c), noting that it had already met with the U.S. Department of the Interior's Fish and Wildlife Service (FWS) and New Mexico Department of Game and Fish (NMDGF) . The FWS concurred with the applicant's request on January 7, 2010, and the NMDGF concurred with the request on January 25, 2010. No other comments were received. Therefore, we intend to accept the consultation that has occurred on this project during the pre-filing period and we intend to waive pre-filing consultation under section 4.38(c), which requires, among other things, conducting studies requested by resource agencies, and distributing and consulting on a draft exemption application.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–12993 Filed 5–28–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

May 21, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER08–394–026.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits proposed revisions to its Open Access Transmission, Energy and Operating Reserves Markets Tariff etc.

Filed Date: 05/20/2010.

Accession Number: 20100521–0202.

Comment Date: 5 p.m. Eastern Time on Thursday, June 10, 2010.

Docket Numbers: ER10–1106–001.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits tariff filing per 35: Correction to PG&E's GMC Baseline Filing to be effective 4/28/2010.

Filed Date: 05/21/2010.

Accession Number: 20100521–5062.

Comment Date: 5 p.m. Eastern Time on Friday, June 11, 2010.

Docket Numbers: ER10–1283–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison submits a revised rate sheet reflecting the cancellation of a letter agreement with the City of Pasadena.

Filed Date: 05/20/2010.

Accession Number: 20100520–0211.

Comment Date: 5 p.m. Eastern Time on Thursday, June 10, 2010.

Docket Numbers: ER10–1284–000.

Applicants: San Diego Gas & Electric Company.

Description: San Diego Gas and Electric Company submits changes in their transmission revenue requirement and rate revisions related to changes to Post-Employment Benefits Other Than pensions expense levels.

Filed Date: 05/20/2010.

Accession Number: 20100520–0210.

Comment Date: 5 p.m. Eastern Time on Thursday, June 10, 2010.

Docket Numbers: ER10–1285–000.

Applicants: Craven County Wood Energy Limited Partnership.

Description: Craven County Wood Energy Limited Partnership submits tariff filing per 35.12: Craven County Wood Energy LP FERC Schedule No. 1 Electric Tariff to be effective 5/24/2010.

Filed Date: 05/21/2010.

Accession Number: 20100521–5016.

Comment Date: 5 p.m. Eastern Time on Friday, June 11, 2010.

Docket Numbers: ER10–1286–000.

Applicants: Portland General Electric Company.

Description: Portland General Electric Company submits a second amendment to its Electric Rate Schedule FERC No. 78 *et al.*

Filed Date: 05/20/2010.

Accession Number: 20100521–0201.

Comment Date: 5 p.m. Eastern Time on Thursday, June 10, 2010.

Docket Numbers: ER10–1287–000.

Applicants: Grayling Generation Station Limited Partnership.

Description: Grayling Generation Station Limited Partnership submits tariff filing per 35.12: Grayling Generating Station LP FERC Schedule No. 1 Electric Tariff to be effective 5/24/2010.

Filed Date: 05/21/2010.

Accession Number: 20100521–5020.

Comment Date: 5 p.m. Eastern Time on Friday, June 11, 2010.

Docket Numbers: ER10–1288–000.

Applicants: Exeter Energy Limited Partnership.

Description: Exeter Energy Limited Partnership submits tariff filing per 35.12: Exeter Energy Limited Partnership ("Exeter") FERC Schedule No. 1 Electric Tariff to be effective 5/24/2010.

Filed Date: 05/21/2010.

Accession Number: 20100521–5037.

Comment Date: 5 p.m. Eastern Time on Friday, June 11, 2010.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES10–43–000.

Applicants: El Paso Electric Company.

Description: Application of El Paso Electric Company for Authorization under Section 204 of the FPA.

Filed Date: 05/19/2010.

Accession Number: 20100519–5126.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 09, 2010.

Docket Numbers: ES10–44–000.

Applicants: Orange and Rockland Utilities, Inc.

Description: Application Pursuant to Section 204 of Orange and Rockland Utilities, Inc. for Authority to Issue and Sell Short Term Debt.

Filed Date: 05/21/2010.

Accession Number: 20100521–5045.

Comment Date: 5 p.m. Eastern Time on Friday, June 11, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and

interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St, NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–12984 Filed 5–28–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

May 20, 2010.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC10–71–000.

Applicants: Blue Spruce Energy Center, LLC, Calpine Development Holdings, Inc., Public Service Company of Colorado, Riverside Energy Center, LLC, Rocky Mountain Energy Center, LLC.

Description: Public Service Co. of Colorado *et al.* submits a joint application for authorization for disposition of jurisdictional facilities.

Filed Date: 05/18/2010.

Accession Number: 20100519–0214.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 8, 2010.

Docket Numbers: EC10–72–000.

Applicants: Cloud County Wind Farm, LLC, Pioneer Prairie Wind Farm I, LLC, Arlington Wind Power Project LLC.

Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Arlington Wind Power Project LLC, Cloud County Wind Farm, LLC, and Pioneer Prairie Wind Farm I, LLC.

Filed Date: 05/20/2010.

Accession Number: 20100520–5090.

Comment Date: 5 p.m. Eastern Time on Thursday, June 10, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER98–4336–015.

Applicants: Spokane Energy, LLC.

Description: Spokane Energy, LLC submits its compliance filing as required by Order 697.

Filed Date: 05/18/2010.

Accession Number: 20100519–0209.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 8, 2010.

Docket Numbers: ER06–739–025; ER06–738–025; ER03–983–025; ER02–537–028; ER07–501–024; ER07–758–021; ER08–649–017.

Applicants: East Coast Power Linden Holding, LLC; Cogen Technologies Linden Venture, L.P.; Fox Energy Company LLC; Shady Hills Power Company, L.L.C.; Birchwood Power Partners, L.P.; Inland Empire Energy Center, L.L.C.; EFS Parlin Holdings, LLC.

Description: Supplemental to Notice of Non-Material Change in Status of East Coast Power Linden Holding, LLC, *et al.*

Filed Date: 05/19/2010.

Accession Number: 20100519–5060.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 9, 2010.

Docket Numbers: ER08–1113–009.

Applicants: California Independent System Operator Corporation

Description: California Independent System Operator Corp submits a compliance filing.

Filed Date: 05/19/2010.

Accession Number: 20100519–0212.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 9, 2010.

Docket Numbers: ER09–748–002; ER09–1050–004.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits revisions to its Open Access Transmission Tariff.

Filed Date: 05/19/2010.

Accession Number: 20100520–0202.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 9, 2010.

Docket Numbers: ER09–1397–002.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits clean copy of the Revised Agreements and redlined copies of the modified sheets of the Revised Agreements as Exhibit II.

Filed Date: 05/18/2010.

Accession Number: 20100519–0201.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 8, 2010.

Docket Numbers: ER10–119–001.

Applicants: New York Independent System Operator Inc.

Description: The New York Independent System Operator, Inc. submits the proposed revisions to its Market Administration and Control Area Services Tariff.

Filed Date: 05/20/2010.

Accession Number: 20100520–0205.

Comment Date: 5 p.m.Eastern Time on Thursday, June 10, 2010.

Docket Numbers: ER10–1014–001.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits filing as Exhibit I and II the clean redlined Tariff pages included in the April 5 Filing with new effective date.

Filed Date: 05/19/2010.

Accession Number: 20100519–0210.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 9, 2010.

Docket Numbers: ER10–1109–001.

Applicants: Eagle Creek Hydro Power, LLC.

Description: Eagle Creek Hydro Power, LLC submits Substitute Original Sheet 1 to its FERC Electric Tariff, Original Volume 1 etc.

Filed Date: 05/19/2010.

Accession Number: 20100520–0203.

Comment Date: 5 p.m. Eastern Time on Friday, May 28, 2010.

Docket Numbers: ER10–1256–001.

Applicants: Conectiv Atlantic Generation, LLC.

Description: Conectiv Atlantic Generation, LLC submits an errata to the proposed FERC Electric Tariff, Original Volume 2 re Reactive Supply and Voltage Control from Generation Sources Services.

Filed Date: 05/19/2010.

Accession Number: 20100519–0211.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 9, 2010.

Docket Numbers: ER10–1207–001; ER10–1208–001.

Applicants: Edgewood Energy, LLC; Shoreham Energy, LLC.

Description: Edgewood Energy, LLC *et al.* submits Original Sheet No. 1 to FERC Electric Tariff, Original Volume No. 1.

Filed Date: 05/20/2010.

Accession Number: 20100520–0206.

Comment Date: 5 p.m. Eastern Time on Thursday, June 10, 2010.

Docket Numbers: ER10–1282–000.

Applicants: Progress Energy, Inc.

Description: Carolina Power & Light Co. *et al.* submits Third Revised Sheet 210 *et al.* to FERC Electric Tariff, Fourth Revised Volume 3 for inclusion in their Joint Open Access Transmission Tariff.

Filed Date: 05/20/2010.

Accession Number: 20100520–0207.

Comment Date: 5 p.m. Eastern Time on Thursday, June 10, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–12983 Filed 5–28–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1888–027]

York Haven Power Company, LLC; Notice of Dispute Resolution Panel Meeting and Technical Conference

May 24, 2010.

On May 19, 2010, Commission staff, in response to the filing of a notice of study dispute by the Pennsylvania Department of Environmental Protection on April 29, 2010, convened a single three-person Dispute Resolution Panel (Panel) pursuant to 18 CFR 5.14(d).

The Panel will hold a technical conference at the time and place noted below. The technical conference will address a dispute pertaining to the study of resident fish passage at the York Haven East Channel Fishway.

The purpose of the technical session is for the disputing agencies, applicants, and Commission to provide the Panel with additional information necessary to evaluate the disputed study. All local, State, and Federal agencies, Indian Tribes, and other interested parties are invited to attend the meeting as observers. The Panel may also request information or clarification on written submissions as necessary to understand the matters in dispute. The Panel will limit all input that it receives to the specific studies or information in dispute and will focus on the applicability of such studies or information to the study criteria stipulated in 18 CFR 5.9(b). If the number of participants wishing to speak creates time constraints, the Panel may, at their discretion, limit the speaking time for each participant.

Technical Conference

Date: Monday, June 14, 2010.

Time: 1 p.m.–5 p.m. (EDT)

Place: Harrisburg Holiday Inn and Conference Center, I–83 & PA Turnpike, Exit 242, New Cumberland, PA.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–12992 Filed 5–28–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM07–10–002]

Transparency Provisions of Section 23 of the Natural Gas Act; Notice of Extension of Time

May 24, 2010.

In comments following the March 25, 2010 Technical Conference in the above-referenced proceeding, the Natural Gas Supply Association, Shell Producers,[1] Process Gas Consumers Group, and Independent Petroleum Association of America (Commenters) requested that the Commission extend the deadline for filing the 2009 Form No. 552 for an additional 60 to 90 days from the current deadline of July 1, 2010. The Commenters contend that the additional time will allow filers to prepare the Form No. 552 based on any additional guidance that the Commission will provide in the future.

Upon consideration, notice is hereby given that all natural gas market participants are granted an extension of time until September 1, 2010 to file their Form No. 552 for calendar year 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–12995 Filed 5–28–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9156–8]

Approval of a Petition for Exemption from Hazardous Waste Disposal Injection Restrictions to Cabot Corporation Tuscola, Tuscola, IL

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on petition.

SUMMARY: Notice is hereby given by the United States Environmental Protection Agency (EPA) that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA) has been granted to Cabot Corporation Tuscola Plant (Cabot Corporation) of Tuscola, Illinois, for two Class I injection wells located in Tuscola, Illinois. As required by 40 CFR part 148,

[1] Shell Gulf of Mexico, Shell Offshore Inc., and SWEPI LP.

Cabot Corporation has demonstrated, to a reasonable degree of certainty, that there will be no migration of hazardous constituents out of the injection zone or into an underground source of drinking water (USDW) for at least 10,000 years. This final decision allows the continued underground injection by Cabot Corporation of specific restricted wastes from the silica production processes (codes D002, F003, and F039 under 40 CFR part 261), into two Class I hazardous waste injection wells specifically identified as Injection Wells No. 2 and No. 3 at the Tuscola facility. This decision constitutes a final EPA action for which there is no Administrative Appeal.

DATES: This action is effective as of June 1, 2010.

FOR FURTHER INFORMATION CONTACT: Dana Rzeznik, Lead Petition Reviewer, EPA, Region V, telephone (312) 353–6492. Copies of the petition and all pertinent information relating thereto are on file and are part of the Administrative Record. It is recommended that you contact the lead reviewer prior to reviewing the Administrative Record.

SUPPLEMENTARY INFORMATION:

Background

Cabot Corporation submitted a petition for renewal of an existing exemption from the land disposal restrictions of hazardous waste on March 8, 2007. EPA personnel reviewed all data pertaining to the petition, including, but not limited to, well construction, well operations, regional and local geology, seismic activity, penetrations of the confining zone, and computational models of the injection zone. EPA has determined that the geologic setting at the site as well as the construction and operation of the well are adequate to prevent fluid migration out of the injection zone within 10,000 years, as required under 40 CFR part 148. The injection zone at this site is composed of the Upper Franconia, Potosi, Eminence and Oneota formations at depths between 4,442 feet and 5,400 feet below ground level. The confining zone is the Shakopee formation at depths between 4,101 feet and 4,442 feet below ground level. The confining zone is separated from the lowermost underground source of drinking water (at a depth of 2700 feet below ground level) by a sequence of permeable and less permeable sedimentary rocks, which provide additional protection from fluid migration into drinking water sources.

EPA issued a draft decision, which described the reasons for granting this exemption in more detail, a fact sheet, which summarized these reasons, and a public notice on December 28, 2009, pursuant to 40 CFR 124.10. The public comment period expired on February 1, 2010. EPA received no comments on the proposed exemption granted to Cabot Corporation. A final exemption is therefore granted as proposed.

Conditions

This exemption is subject to the following conditions. Non-compliance with any of these conditions is grounds for termination of the exemption:

(1) All regulatory requirements in 40 CFR 148.23 and 148.24 are incorporated by reference;

(2) The exemption applies to two existing injection wells, Well #2 and Well #3 located at the Cabot Corporation facility at 700 E. U.S. Highway 36, in the City of Tuscola in Douglas County, Illinois;

(3) Injection is limited to that part of Upper Franconia, Potosi, Eminence and Oneota formations at depths between 4,442 and 5,400 feet;

(4) Only wastes denoted by the waste codes D002, F003 and F039 may be injected;

(5) The concentrations of constituents of the injected waste will not exceed the amounts listed in Table 1–1 in the petition document;

(6) The volume of wastes injected in any month through the wells must not exceed 17,280,000 gallons;

(7) This exemption is approved for the 21-year modeled injection period, which ends on December 31, 2027. Cabot Corporation may petition EPA for a reissuance of the exemption beyond that date, provided that a new and complete petition and no-migration demonstration is received at EPA, Region 5, by July 1, 2027;

(8) Cabot Corporation shall quarterly submit to EPA a report containing a fluid analysis of the injected waste which shall indicate the chemical and physical properties upon which the no-migration petition was based, including the physical and chemical properties listed in Conditions 5 and 6 of this exemption approval;

(9) Cabot Corporation shall annually submit to EPA a report containing the results of a bottom hole pressure survey (fall-off test) performed on Well #2 and Well #3 (alternating years). The survey shall be performed after shutting in the well for a period of time sufficient to allow the pressure in the injection interval to reach equilibrium, in accordance with 40 CFR 146.68(e)(1). The annual report shall include a comparison of reservoir parameters determined from the fall-off test with parameters used in the approved no-migration petition;

(10) The petitioner shall fully comply with all requirements set forth in Underground Injection Control Permit UIC–011–CC issued by the Illinois Environmental Protection Agency; and

(11) Whenever EPA determines that the basis for approval of a petition may no longer be valid, EPA may terminate this exemption and will require a new demonstration in accordance with 40 CFR 148.20.

Dated: March 5, 2010.

Tinka G. Hyde,

Director, Water Division, EPA Region 5.

[FR Doc. 2010–13089 Filed 5–28–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9157–2; Docket ID No. EPA–HQ–ORD–2009–0934]

The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields and a Field-Based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of Public Comment Period to July 13, 2010.

SUMMARY: EPA is announcing an extension of the public comment period for two related draft documents: (1) "The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields" (EPA/600/R–09/138A) and (2) "A Field-based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams" (EPA/600/R–10/023A). We are specifically extending the comment period to give the public an opportunity to evaluate the data used to derive a benchmark for conductivity. By following the link below, reviewers may download the initial data and EPA's derivative data sets that were used to calculate the conductivity benchmark. These reports were developed by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development as part of a set of actions taken by EPA to further clarify and strengthen environmental permitting requirements for Appalachian mountaintop removal and other surface coal mining projects, in coordination with Federal and State regulatory agencies (*http://www.epa.gov/owow/wetlands/guidance/mining.html*).

Both documents will be reviewed by an independent review panel convened by EPA's Science Advisory Board (SAB). The SAB's peer review meeting, which the public will be able to attend as observers, is scheduled for July 20–22, 2010. The public comment period and the SAB meeting are separate processes that provide opportunities for all interested parties to comment on the document. EPA intends to forward the public comments that are submitted, in accordance with this notice, to the SAB review panel prior to the meeting for their consideration. When finalizing the draft documents, EPA intends to consider any significant public comments that it receives in accordance with this notice.

EPA is releasing these draft documents for the purpose of pre-dissemination peer review under applicable information quality guidelines. The documents have not been formally disseminated by EPA. They do not represent and should not be construed to represent a final Agency policy or determination; however, the documents reflect EPA's best interpretation of the available science. The draft documents are available via the Internet on NCEA's home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.*

DATES: The public comment period began on April 12, 2010 and ends on July 13, 2010. Technical comments should be in writing and must be received by EPA by July 13, 2010.

ADDRESSES: The draft reports, "The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields" and "A Field-based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams" are available primarily via the Internet on the National Center for Environmental Assessment's home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available, contact the EPA; telephone: 703–347–8629; facsimile: 703–347–8691. If you are requesting a paper copy, please provide your name, your mailing address, and the document titles (1) "The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields" and (2) "A Field-based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams."

Comments may be submitted electronically via *http://www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on submitting comments to the docket, please contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.* For technical information, please leave a message at 703–347–8629 or send e-mail to *MTM–Cond@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the first draft report entitled, "The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields," is to assess the state of the science on the ecological impacts of Mountaintop Mining and Valley Fill (MTM–VF) operations on streams in the Central Appalachian Coal Basin. This basin covers about 12 million acres in West Virginia, Kentucky, Virginia, and Tennessee. The draft report reviews literature relevant to evaluating five potential consequences of MTM–VF operations: (1) Impacts on headwater streams; (2) impacts on downstream water quality; (3) impacts on stream ecosystems; (4) the cumulative impacts of multiple mining operations; and (5) effectiveness of mining reclamation and mitigation. The impacts of MTM–VF operations on cultural and aesthetic resources are not included in the review. EPA used two primary sources of information for the evaluation: (1) The peer reviewed, published literature and (2) the Programmatic Environmental Impact Statement (PEIS) on Mountaintop Mining/Valley Fills in Appalachia and its associated appendices prepared in draft in 2003 and finalized in 2005.

The second draft report entitled, "A Field-based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams," uses field data to derive an aquatic life benchmark for conductivity. Conductivity is a measurement of the salt content of water. The saltier the water, the more it will conduct electricity. This benchmark value may be applied to waters in the Appalachian Region that are near neutral or mildly alkaline in their pH and are influenced by salts of sulfate and bicarbonate. This benchmark is intended to protect the biological integrity of waters in the region. It is derived by a method modeled on the U.S. EPA's standard methodology for deriving water quality criteria. In particular, the methodology was adapted for use of field data. Field data were used because sufficient and appropriate laboratory data were not available and because high quality field data were available to relate conductivity to effects on biotic communities. This draft report provides scientific evidence for a conductivity benchmark in a specific region rather than for the entire United States.

II. How To Submit Technical Comments to the Docket at http://www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD 2009–0934, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ORD.Docket@epa.gov.*
- *Fax:* 202–566–1753.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, Room 3334 EPA West Building, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center's Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2009–0934. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked "late," and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *http://www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://*

www.regulations.gov or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: Documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: May 25, 2010.

Rebecca Clark,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 2010–13072 Filed 5–28–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2010–0464; FRL–9156–7]

Stakeholder Input; National Pollutant Discharge Elimination System (NPDES) Permit Requirements for Municipal Sanitary Sewer Collection Systems, Municipal Satellite Collection Systems, Sanitary Sewer Overflows, and Peak Wet Weather Discharges From Publicly Owned Treatment Works Treatment Plants Serving Separate Sanitary Sewer Collection Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is announcing plans to hold several "listening sessions" beginning in June 2010 to obtain information from the public on certain issues EPA is considering. EPA is considering whether to propose to modify the National Pollutant Discharge Elimination System (NPDES) regulations as they apply to municipal sanitary sewer collection systems and sanitary sewer overflows (SSOs) in order to better protect the environment and public health from the harmful effects of sanitary sewer overflows and basement back ups. The Agency is considering whether to propose possible modifications to the NPDES regulations, including establishing standard permit conditions for publicly owned treatment works (POTW) permits that specifically address sanitary sewer collection systems and SSOs, and clarifying the regulatory framework for applying NPDES permit conditions to municipal satellite collection systems. The Agency is also considering whether and how it should resolve several longstanding issues that are the subject of the December 22, 2005 draft Peak Flows Policy. This draft Policy attempted to clarify EPA's interpretation that the existing "bypass" provision of the NPDES regulations applies to peak wet weather diversions at POTW treatment plants that are recombined with the flows from the secondary treatment units prior to discharge. The Agency is considering whether to adopt this or a revised Policy and/or address questions about peak flow as part of an SSO rulemaking to allow for a holistic and integrated approach to reducing SSOs while at the same time addressing peak flows at the POTW treatment plant.

In addition to submitting information at the listening sessions, the public may also provide input to the Agency directly through e-mail, fax or mail in order to help the Agency shape any possible future regulatory proposals. The Agency is undertaking this outreach to help advance the Clean Water Act objective to restore and maintain the chemical, physical and biological integrity of the nation's waters (CWA, Section 101(a)).

DATES: EPA is asking for statements and input from the interested public on or before August 2, 2010.

ADDRESSES: Submit your statements or input, identified by Docket ID No. EPA–HQ–OW–2010–0464, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting input.
- *E-mail: OW–Docket@epa.gov,* Attention Docket ID No. EPA–HQ–OW–2010–0464.
- *Fax:* 202–566–9744.
- *Mail:* Water Docket, U.S. Environmental Protection Agency, Mail code: 4203M, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Attention Docket ID No. EPA–HQ–OW–2010–0464.
- *Hand Delivery:* Water Docket, EPA Docket Center, EPA West Building Room 3334, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. EPA–HQ–OW–2010–0464. 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 input to Docket ID No. EPA–HQ–OW–2010–0464. EPA's policy is that all input 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 input 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 input. If you send an e-mail with input directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the input that is placed in the public docket and made available on the Internet. If you submit an electronic input, EPA recommends that you include your name and other contact information in the body of your input and with any disk or CD–ROM you submit. If EPA cannot read your input due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your input. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: For further information about this notice, contact Charles Glass, EPA Headquarters, Office of Water, Office of Wastewater Management at tel.: 202–564–0418 or e-mail: *glass.charles@epa.gov.*

Public Listening Sessions: EPA will hold several informal public listening sessions to gather input on actions that EPA is considering. The public listening sessions will include a brief background on SSOs and peak flows that will be followed by an opportunity for the public to provide input on possible paths forward. Written and oral statements will be accepted at the public listening sessions. Input generated from what was learned at a public listening session will be compiled and archived. The information gathered at these sessions, will be available on the Internet at *http://www.epa.gov/npdes/sanitarysewageroverflows.* Brief oral statements (three minutes or less) will be accepted at the sessions, and written statements will be accepted.

The dates and locations of the listening sessions are as follows:

■ June 24, 2010, 10 a.m. to 3 p.m. at EPA Region 10 Office, 1200 Sixth Avenue, Seattle, WA 98101.

■ June 28, 2010, 10 a.m. to 3 p.m. at EPA Region 4 Office, 61 Forsyth Street, SW., Atlanta, GA 30303.

■ June 30, 2010, 10 a.m. to 3 p.m. at EPA Region 7 Office, 901 N. 5th Street, Kansas City, KS 66101.

■ July 13, 2010, 10 a.m. to 3 p.m. at EPA HQ Office, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20004.

In addition to the listening sessions held throughout the country, EPA will hold a "virtual" listening session via a webcast on July 14, 2010, from Noon–4 p.m. EST. The same format will be followed as the in-person listening sessions. After a presentation from EPA, members of the public may call in and give brief (three-minute) statements. Audience members will be able to listen to the webcast and all public statements through their computer speakers.

SUPPLEMENTARY INFORMATION:

I. General Information

A. How can I get copies of this document and other related information?

1. *Docket.* EPA has established an official public docket for this matter under Docket ID No. EPA–HQ–OW–2010–0464. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave., Washington, DC. Although all documents in the docket are listed in an index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available in hard copy at the EPA Docket Center Public Reading Room, open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

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/.*

Electronic versions of this notice and other SSO documents are available at EPA's SSO Web site *http://www.epa.gov/npdes/sanitarysewageroverflows.*

An electronic version of the public docket is available through EPA's electronic public docket and input system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public input, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search", then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Section I.A.1.

Submitting CBI. Do not submit this information to EPA though regulations.gov or e-mail. Clearly mark all of the information that you claim to be CBI. For CBI information on computer discs mailed to EPA, mark the surface of the disc as CBI. Also identify electronically the specific information contained in the disc or that you claim is CBI. In addition to one complete version of the specific information claimed as CBI, you must submit a copy that does not contain the information claimed as CBI for inclusion in the public document. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

It is important to note that EPA's policy is that public input, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the input contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies any input containing copyrighted material, EPA will provide a reference to that material in the version of the document that is placed in EPA's electronic public docket. The entire printed submittal, including the copyrighted material, will be available in the public docket.

Documents submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Input that is mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

B. How and to whom do I submit input?

You may submit input electronically, by mail, through hand delivery/courier, or in person by attending one of the 5 listening sessions. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your input. Please ensure that your input is submitted within the specified input period.

1. *Electronically.* If you submit electronic input as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your input. Also include this contact information on the outside of any disk or CD–ROM you submit, and in any cover letter accompanying the disk or CD–ROM. This ensures that you can be identified as the submitter of the input and allows EPA to contact you in case EPA cannot read your submittal due to technical difficulties or needs further information on the substance of your input. EPA's policy is that EPA will not edit your input, and any identifying or contact information provided in the body of the text will be included as part of the input that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your submittal due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your input.

i. *EPA Dockets.* Your use of EPA's electronic public docket to provide input to EPA electronically is EPA's preferred method for receiving input. Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting input. Once in the system, select "search", and then key in Docket ID No. EPA–HQ–OW–2010–0464. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it.

ii. *E-mail.* Input may be sent by electronic mail (e-mail) to *ow-docket@epa.gov,* Attention Docket ID No. EPA–HQ–OW–2010–0464. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the submittal that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD–ROM.* You may submit input on a disk or CD–ROM that you mail to the mailing address identified in this section. These electronic submissions will be accepted in Microsoft Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send the original and three copies of your input to: Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OW–2010–0464.

3. *By Hand Delivery or Courier.* Deliver your input to: Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20004, Attention Docket ID No. EPA–HQ–OW–2010–0464. Such deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays).

II. Background

In order to help the public prepare for the listening sessions, the following background information is provided.

Wastewater collection systems collect domestic sewage and other wastewater from homes and other buildings and convey it to wastewater sewage treatment plants for proper treatment and disposal. The collection and treatment of municipal sewage and wastewater is vital to the public health in our cities and towns.

The efficiency of treatment at a wastewater treatment plant depends strongly on the performance of the collection system. When the structural integrity of a sanitary sewer collection system deteriorates, high volumes of infiltration (including rainfall-induced infiltration) and inflow can enter the sewer system. High levels of inflow and infiltration (I/I) increase the hydraulic load on treatment plants, which can reduce treatment efficiency, lead to bypassing a portion of the treatment process, or in extreme situations make biological treatment facilities inoperable (*e.g.,* wash out the biological organisms that treat the waste).

In the United States, municipalities historically have used two major types of sewer systems. One type, combined sewers, is designed to collect both sanitary sewage and storm water runoff in a single-pipe system. Sewer builders designed this type of sewer system to provide the primary means of surface drainage and drain precipitation flows away from streets, roofs, and other impervious surfaces. State and local authorities generally have not allowed the construction of new combined sewers since the first half of the 20th century. The other major type of domestic sewer design is sanitary sewers (also known as separate sanitary sewers). Sanitary sewers are not installed to collect large amounts of runoff from precipitation events or provide widespread drainage, although they typically are built with some allowance for higher flows that occur during storm events for handling minor and non-excessive amounts of I/I that enter the system.

SSOs, which are releases of raw sewage, can result when there is a failure in a sanitary sewer collection system. EPA generally uses the term SSO to describe releases of sewage that result in a discharge to waters of the United States, as well as releases that do not result in a discharge to U.S. waters, including sewage backups into buildings. A number of factors can cause or contribute to an SSO, including high levels of I/I; blockages caused by roots, grease, sediment or other materials; structural, mechanical or electrical failure; and third party actions or activities.

Municipal sanitary sewer collection systems are an extensive, valuable, and complex part of the nation's infrastructure. The collection system of a single large municipality can include thousands of miles of pipe and represent an investment worth billions of dollars. The underlying challenges affecting the performance of collection systems are influenced by a number of factors including the following:

- Much of the nation's sanitary sewer infrastructure is old; some parts of this infrastructure date back over 100 years. Over the time period associated with building these systems, a wide variety of materials, design and installation practices, and maintenance/repair procedures have been used, many of which are inferior to those available today;
- Infrastructure has deteriorated with time and continues to age;
- Investment in infrastructure maintenance and repair has often been inadequate;
- The location of problems (*e.g.,* roots, debris) and other variables may continually change throughout a system;
- Systems may fail to provide capacity to accommodate increased sewage delivery and treatment demand from increasing populations; and
- Institutional arrangements relating to the operation of sewers may present a barrier to effective operation and maintenance of sewer systems. Almost all building laterals in a municipal system are privately owned. In many municipal systems, a high percentage of collector sewers are owned by private entities or municipal entities other than the entity operating the major interceptor sewers.

The proper operation and maintenance of collection system assets is critical to minimizing the frequency and volume of SSOs. Municipalities need to manage their assets effectively and ensure adequate and sustainable funding to support appropriate investments.

The main concern regarding raw sewage releases associated with SSOs is typically pathogens, including bacteria, viruses, and protozoa. SSOs can contain other pollutants, including nutrients, toxics from industrial, commercial and residential sources, and wastewater solids and debris. SSOs are of special concern to public health because they may expose citizens to bacteria, viruses, intestinal parasites, and other microorganisms that can cause serious illness such as gastroenteritis, hepatitis, cryptosporidiosis, and giardiasis. Sensitive populations, children, the elderly and those with weakened immune systems, can be at a higher risk of illness from exposure to sewage from SSOs.

The discharge of untreated sewage in SSOs can contaminate waters, in some cases causing water quality problems and threats to public health. SSOs may also cause raw sewage to flow into basements, parks, recreational streams,

beaches, on city streets and backyards, and other areas where people are in close contact with the overflow. The public can be exposed to raw sewage from SSOs through street flooding, recreational contact such as swimming and fishing, drinking contaminated water and collection system back-ups into homes. The threat to public health and the environment posed by SSOs is not necessarily limited to large volume or extended-duration overflows. Some of the greatest threats from SSOs stem from viruses and pathogens which can present a public health threat even in small volume, intermittent overflows.

Statutory and Regulatory Overview

SSOs that reach waters of the United States are point source discharges and, like other point source discharges, are generally prohibited unless authorized by an NPDES permit. Sanitary sewers are part of the treatment works under the Clean Water Act and discharges from sanitary sewers have historically been viewed as required to achieve secondary treatment in order to be eligible to receive an NPDES permit. Moreover, SSOs, including those that do not reach waters of the United States, may be indicative of improper operation and maintenance of the sewer system, and thus may violate other NPDES permit conditions. The NPDES regulations establish standard permit conditions which must be included in all NPDES permits, as well as additional standard permit conditions to be included in all NPDES permits for publicly owned treatment works (POTWs) (*see* 40 CFR 122.41 and 122.42). Standard permit conditions in a permit for a POTW apply to all portions of the collection system for which the permittee has ownership or has operational control. Standard permit conditions that have particular application to SSOs and municipal sanitary sewer collection systems include provisions that address a duty to mitigate (§ 122.41(d)); proper operation and maintenance (§ 122.41(e)); noncompliance reporting (§ 122.41(l)(6) and (7)); recordkeeping (§ 122.41(j)(2))

Previous Activities To Address SSO Requirements

In 1994, a number of municipalities asked EPA to establish a Federal Advisory Committee (FAC) of key stakeholders to make recommendations on how the NPDES program should address SSOs. This request came soon after EPA had published the Combined Sewer Overflow Control Policy in 1994, which was designed to provide greater national clarity and consistency in the way NPDES requirements apply to combined sewer overflows (CSOs). In part, the municipalities indicated a desire for greater national clarity and consistency in the way NPDES requirements apply to SSOs. The municipalities indicated that they believed that eliminating all SSO discharges was technically infeasible and, as a result, municipalities tasked with the responsibility of operating these systems could not comply with an absolute prohibition on SSOs. The municipalities suggested a need for a workable regulatory framework which allowed EPA and NPDES authorities to define compliance endpoints in a manner that was consistent with engineering realities and the health and environmental risks of SSOs.

EPA then convened a national "SSO policy dialogue" among a balanced group of representatives from key stakeholder organizations. EPA asked the individual stakeholders to provide input on how best to meet the SSO policy challenge. In 1995, EPA chartered an Urban Wet Weather Flows Federal Advisory Committee (FAC) with the goal of developing specific recommendations addressing cross-cutting wet weather issues and to improve the effectiveness of the Agency's efforts to address wet weather pollutant sources under the NPDES program. The Urban Wet Weather Flows Federal Advisory Committee reconvened the SSO policy dialogue group as its SSO Subcommittee.

The SSO Subcommittee met twelve times to develop a draft paper and on October 20, 1999, with unanimous support from the members, completed a framework to address SSOs. In the draft paper the Subcommittee supported basic principles with the following suggested NPDES permit requirements:

(1) Capacity, management, operation and maintenance (CMOM) programs for municipal sanitary sewer collection systems;

(2) A prohibition on SSOs, which includes a framework for raising a defense for unavoidable discharges;

(3) Reporting, public notification, and recordkeeping requirements for municipal sanitary sewer collection systems and SSOs; and

(4) The interim use of remote treatment facilities (or peak excess flow treatment facilities).

In addition, the Subcommittee unanimously supported a set of principles for municipal satellite collection systems and watershed management, although members did not develop detailed language addressing these topics.

EPA prepared a Notice of Proposed Rulemaking (NPRM) to reflect the work achieved by the FAC. The NPRM was never formally released to the public or sent to the **Federal Register** for publication, but instead was withdrawn in January 2001 for further review. The draft NPRM would have proposed NPDES standard permit conditions for municipal sanitary sewer collection systems that were aimed at providing a more efficient approach to controlling SSOs through better management, increased public notice, and a focus on system planning.

In August 2004 the Agency presented to Congress the "Report to Congress: Impacts and Control of CSOs and SSOs". The report found that CSOs and SSOs can have impacts on human health and the environment at the local watershed level. The report identified a broad range of technologies available to municipalities to control the impacts of CSOs and SSOs, documented the extent of the problem, and provided a baseline for future policy actions. In the Report to Congress, EPA estimated that between 23,000 and 75,000 SSOs occur each year in the United States, resulting in releases of between 3 billion and 10 billion gallons of untreated wastewater.

Previous Activities To Address Peak Flow Requirements

One standard permit condition in the NPDES regulations is the bypass provision at 40 CFR 122.41(m). The provision defines bypass to mean the "intentional diversion of waste streams from any portion of a treatment facility." The regulation prohibits bypasses except where necessary for essential maintenance to assure efficient operation and where effluent limitations are not exceeded. For all other bypasses, the Director of the NPDES program may take enforcement action against a permittee for a bypass, unless:

(A) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime; and

(C) The permittee submitted the notices required by the regulation.

The bypass regulation provides that the Director of the NPDES authority may approve an anticipated bypass, after considering its adverse effects, if the Director determines that the bypass will meet the criteria identified in the regulation and listed above. Approval of an anticipated bypass does not "authorize" the bypass, rather an

approval of an anticipated bypass describes the circumstances in which the NPDES authority will not take an enforcement action against the permittee for a prohibited bypass. The bypass provision was promulgated in 1979, and has remained in effect since that time.

On November 7, 2003, in response to requests from many stakeholders, EPA requested public comment on a draft policy to address the issue of NPDES requirements for discharges from POTWs serving separate sanitary sewers where peak wet weather flow is routed around biological treatment units and then blended with the effluent from the biological units prior to discharge. Under the November 7, 2003, approach, a wet weather diversion around biological treatment units that was blended with the wastewater from the biological units prior to discharge would not have been considered to constitute a prohibited bypass if certain criteria were met.

EPA received significant public comment on the 2003 document, including over 98,000 comments opposing adoption of such a policy due to concerns about potential human health risks of diverting a portion of the flow around secondary treatment units during wet weather events. EPA also received a letter signed by 73 members of Congress asking that EPA not move forward with finalizing the policy. On May 19, 2005, EPA indicated that, after consideration of the comments, the Agency did not intend to finalize the 2003 proposal. On July 26, 2005, Congress enacted the FY 2006 Department of the Interior, Environment, and Related Agencies Appropriations Act (Pub. L. 109–54). Section 203 of this Act provides that none of the funds made available in the Act could be used to finalize, implement or enforce the November 7, 2003, proposed blending policy.

In October 2005, the Natural Resources Defense Council (NRDC) and the National Association of Clean Water Agencies (NACWA) provided EPA with their joint proposal recommending further action that the Agency should take regarding peak flows. The NRDC/NACWA recommended approach includes an interpretation of the bypass regulation that is significantly different from the November 7, 2003, document in that it would clarify that the bypass provision applies to wet weather diversions at POTW treatment plants serving separate sanitary sewers including those in which the diverted stream is blended with the secondary effluent before discharge.

On December 22, 2005, EPA requested public comment on a draft Peak Flows Policy that reflects the approach of the NRDC/NACWA recommendation. The 2005 draft Policy explains how the NPDES authority should determine whether requests for approval of anticipated peak wet weather flow diversions at POTW treatment plants serving separate sanitary sewer collection systems, which are recombined with flow from the secondary treatment units prior to discharge, should be approved or denied under 40 CFR 122.41(m)(4)(ii). The approach in the draft Policy is based on language in the bypass regulation that provides that if the NPDES authority determines that the criteria of § 122.41(m)(4)(i) will be met, the NPDES authority may approve an anticipated bypass of peak wet weather flow diversions around secondary treatment units. EPA has not, to date, finalized the draft Policy.

III. Input on Issues That EPA Is Considering

EPA is considering whether to develop a more specific broad-based regulatory framework for sanitary sewer collection systems under the NPDES program. The Agency is considering proposing standard permit conditions for inclusion in permits for publicly owned treatment works (POTWs) and municipal sanitary sewer collection systems. The permit conditions EPA is considering would address the following areas: reporting, overflow right-to-know, notice of public health officials and recordkeeping requirements for SSOs, capacity assurance, management, operation and maintenance requirements for municipal sanitary sewer collection systems; and possible regulatory requirements or provisions for SSOs that are caused by exceptional circumstances.

EPA is also seeking the views of the interested public on the implications for peak excess flow treatment facilities in the municipal sanitary collection system and the treatment of peak flows that reach POTWs. The Agency is considering clarifying and modifying the regulatory framework for applying NPDES permit conditions, including applicable standard permit conditions, to municipal satellite collection systems. Municipal satellite collection systems are sewer systems owned or operated by a municipality that conveys wastewater to a POTW operated by a different municipality.

In addition, the Agency is considering clarifying when municipal satellite collection systems must obtain a permit.

With today's notice of the scheduled public meetings, EPA is asking for public input on the following preliminary considerations that will inform EPA's thinking on the issues that will be the subject of these meetings.

1. Should EPA propose to clarify its standard permit conditions for SSO reporting, recordkeeping and public notification?

Current requirements require all NPDES permits to contain the standard permit conditions at 40 CFR 122.41(l)(6) and (7) for noncompliance reporting. When incorporated into a permit, these standard conditions require permittees to report any instance of noncompliance to the NPDES authority. SSOs that result in discharges to waters of the United States or result from improper operation and maintenance of the collection system constitute noncompliance, which the permittee must report under these provisions. The existing requirements in 40 CFR 122.41(l)(6) and (7) require the permittee to report orally to the NPDES authority within 24 hours of becoming aware of the event if the noncompliance may endanger health or the environment. A written submission must follow within 5 days of the time the permittee becomes aware of the noncompliance, unless the Director waives the written report. The standard permit condition at 40 CFR 122.41(l)(7) requires the permittee to report all other instances of noncompliance in writing at the time discharge monitoring reports are submitted.

At a minimum, all NPDES permits must contain the standard permit condition at 40 CFR 122.41(j)(2) for recordkeeping. When incorporated into a permit, this provision, among other things, requires permittees to retain copies of all reports required by the permit for a period of at least 3 years from the date of the report. This requirement includes retaining records of the required noncompliance reports of SSO events that result in discharges to waters of the U.S. Additional reporting and recordkeeping requirements may have been included in a permit on a case-by-case basis.

The existing NPDES standard permit conditions do not establish monitoring or public notification requirements for SSOs.

The Agency is considering proposing to clarify and expand standard permit requirements to establish a comprehensive framework for monitoring, reporting, public notification, and recordkeeping for SSOs from municipal sanitary sewer collection systems. EPA requests input on the following types of questions:

• Is there a need for establishing this framework and, if so, which SSO events should be subject to reporting, recordkeeping and public notice requirements?

• Should EPA clarify that such requirements apply to SSOs that do not result in a discharge to waters of the United States, including sewage backups into buildings?

• Which SSO events should be reported immediately?

• What criteria should be used to determine if notice of public health officials is appropriate for an SSO event?

• Should EPA establish minimum requirements for monitoring SSOs to alert the municipal operator in a timely manner? If so, what are appropriate methods, technologies or management programs for monitoring SSOs?

• Should EPA require immediate notification to the public of SSOs? If so, for which SSOs and how and when should the public be notified?

The potential changes are authorized by, and would implement, CWA sections 304(i), 308 and 402(a).

2. Should EPA propose to develop a standard permit condition with requirements for capacity, management, operations and maintenance programs based on asset management principles?

Under existing regulations at 40 CFR 122.41, all NPDES permits must contain two standard conditions addressing operation and maintenance: proper operation and maintenance requirements at 40 CFR 122.41(e) and duty to mitigate at 40 CFR 122.41(d). These provisions require the permittee to properly operate and maintain its collection system as well as take all reasonable steps to minimize or prevent SSO discharges to waters of the United States that have a reasonable likelihood of adversely affecting human health or the environment. In addition, these provisions, along with a prohibition on SSOs to waters of the U.S., are the basis for requiring permittees to provide adequate sanitary sewer collection system capacity.

EPA is considering proposing to add a new standard condition that would clarify EPA's expectations for appropriate capacity, management, operation and maintenance (CMOM) program requirements. The major components of such a CMOM standard permit condition could include general conditions; a general requirement to develop and implement a CMOM program; and documentation requirements, including a written summary of the program, an overflow emergency response plan, a system evaluation and capacity assurance plan, and the results of a program audit. The concept of CMOM also has a significant nexus with Asset Management approaches, which are becoming an industry standard for infrastructure management. The CMOM may present an appropriate framework or context for a possible permit condition.

EPA requests information on successful programs that have been implemented to manage, operate, and maintain their systems. In addition, EPA requests input on:

• What is the need for a CMOM standard permit condition?

• What are the appropriate components and core attributes of a CMOM standard permit condition and what is their nexus with Asset Management practices?

• If adopted, how should a CMOM provision be tailored for small municipalities?

• Would integrating system evaluation and capacity assurance planning efforts for the collection system with planning efforts to address peak flow issues at the treatment plant encourage more holistic approaches?

3. Should EPA propose to require permit coverage for municipal satellite collection systems?

Many municipal sanitary sewer collection systems are not entirely owned or operated by a single municipal entity. A municipal entity that operates a treatment plant may be responsible for conveying and/or treating wastewater from sewers of other municipalities. The term "municipal satellite collection system" refers to a collection system that is owned or operated by a municipality other than the municipality that provides treatment for wastewater added throughout the system. The term "regional collection system operator" refers to a collection system operator who is responsible for the treatment plant(s) that receives wastewater from municipal satellite collection systems. Regional municipal collection system operators who provide wastewater treatment may only operate a relatively small portion of the collection system, such as major interceptors or collector sewers in certain areas. In extreme cases, the regional authority or district (and traditional NPDES permit holder) does not own or operate any part of the collection system, only the treatment plant.

Poorly performing municipal satellite collection systems can be major contributors to peak flow problems in regional collection systems. In addition, investment in maintenance, repair and enhanced capacity of municipal satellite collection systems has often lagged behind that for regional municipal collection systems. This lag in investment is generally due to institutional issues such as lack of responsibility by municipal satellite collection system operators for problems downstream in the collection system or at a treatment plant, even where the municipal satellite collection system may have been a significant source of capacity problems downstream. In addition, direct oversight by EPA and NPDES States has been limited.

Municipal satellite collection systems can also experience overflows. The Agency believes it may be important to clarify who is required to report these events to the NPDES authority and how they should be reported, in order to protect human health and the environment.

EPA is considering clarification of the framework for regulating municipal satellite collection systems under the NPDES permit program. EPA welcomes input on the questions whether (and which) municipal satellite collection system should be required to obtain an NPDES permit, and whether EPA should require these systems to meet standard permit conditions related to reporting, public notification, and recordkeeping; CMOM requirements; and prohibition along with other standard permit conditions throughout municipal collection systems including satellite portions.

4. What is the appropriate role of NPDES permits in addressing unauthorized SSOS that are caused by exceptional circumstances?

Even municipal collection systems that are operated in an exemplary fashion may experience unauthorized discharges under exceptional circumstances. EPA requests input on the appropriate role of NPDES permits in addressing such exceptional events. The current NPDES standard permit conditions provide two provisions, the bypass provision at 40 CFR 122.41(m) and the upset provision at 40 CFR 122.41(n), that were designed to address violations that occur under exceptional circumstances. The bypass provision generally prohibits bypasses, but also provides criteria for when the NPDES authority may excuse a bypass by exercising enforcement discretion and not bring an enforcement action for a violation. The upset provision allows a permittee to raise an affirmative defense to a violation of a technology-based effluent limitation. The Agency is considering developing a standard permit condition that would provide a

framework for evaluating the specific circumstances of overflows from a municipal sanitary sewer collection system that result in a discharge to waters of the U.S. and consideration of those circumstances to excuse those discharges, either through the exercise of enforcement discretion or through establishment of an affirmative defense. The Agency requests input on the appropriate criteria that should be used in such a provision.

5. How should EPA address peak flows at POTW treatment plants?

The Agency is considering the direction to take to resolve several long standing issues that are the subject of the December 22, 2005 draft Peak Flows Policy. This draft Policy attempted to clarify EPA's interpretation that the existing "bypass" provision of the NPDES regulations applies to peak wet weather diversions at POTW treatment plants that are recombined with the flows from the secondary treatment units prior to discharge. The Agency is considering whether to embrace the approach explained in the draft Policy and/or to propose to address these issues in any SSO rulemaking. Addressing the issues in the context of possible SSO rulemaking would allow for a holistic and integrated approach to reducing SSOs while at the same time addressing peak flows at the POTW treatment plant. In addition, EPA would like to receive public input on the limited number of cases where infrequent discharges from wet weather treatment facilities located in sanitary sewer collection systems have been authorized or approved and issued a permit by an NPDES authority. The Agency would like to receive feedback from the public on the need for requirements for these facilities and any technologies that are utilized in the sanitary sewer system to treat discharges.

6. What are the costs and benefits of CMOM programs and asset management of sanitary sewers?

EPA is soliciting input from the general public concerning the impact of the proposed rule in terms of costs on covered entities and benefits of proposed rule requirements. Specifically, EPA is seeking information on asset management approaches, integrated utility planning, or other mechanisms that are used to ensure the sustainability and cost effectiveness of investments and enhance public health and environmental benefits. The Agency is seeking input on the potential incorporation of these techniques or others that are similar in any proposed modifications to the NPDES regulations.

In addition, examples of other information that is needed from the public include: the number of municipalities currently implementing CMOM and the components of their CMOM programs; information on costs incurred by basement backups as well as the frequency that they occur; and the number and location of municipal satellite systems and the cost effectiveness of extending permitting requirements to them.

7. Are there other considerations?

EPA requests input on other considerations, such as environmental justice issues associated with this Notice. In particular, EPA requests input on environmental justice considerations associated with establishing requirements for municipal satellite collection systems.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: May 26, 2010.

Peter S. Silva,

Assistant Administrator, Office of Water.

[FR Doc. 2010–13098 Filed 5–28–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2008–0747; FRL–9156–6]

RIN 2040–AE90

National Primary Drinking Water Regulations; Announcement of the Results of EPA's Review of Existing Drinking Water Standards and Request for Public Comment and/or Information on Related Issues; Extension of the Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending by 30 days the public comment period for the National Primary Drinking Water Regulations; Announcement of the Results of EPA's Review of Existing Drinking Water Standards and Request for Public Comment and/or Information on Related Issues, which was published in the **Federal Register** on March 29, 2010. The purpose of that notice was to invite commenters to submit any new, relevant peer-reviewed data or information pertaining to the four NPDWRs identified in that action as candidates for revision (*i.e.* acrylamide, epichlorohydrin, tetrechloroethylene and trichloroethylene). This information will inform EPA's evaluation as the Agency moves forward with the regulatory revisions for these four NPDWRs. This extended comment period will afford greater opportunity to all interested parties to review and submit comments on the notice.

DATES: Comments must be received on or before July 1, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2008–0747, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Mail:* Water Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Water Docket, EPA Docket Center (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave., NW., 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–OW–2008–0747. 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 FURTHER INFORMATION CONTACT: Karen Wirth, Office of Ground Water and Drinking Water, Standards and Risk Management Division, at (202) 564–5246 or e-mail *wirth.karen@epa.gov.* For general information contact the EPA Safe Drinking Water Hotline at (800) 426–4791 or e-mail: *hotline-sdwa@epa.gov.*

SUPPLEMENTARY INFORMATION: The comment period for the Announcement of the Results of EPA's Review of Existing Drinking Water Standards and Request for Public Comment and/or Information on Related Issues (Six-Year Review 2) now ends July 1, 2010. This is an extension of 30 days beyond the comment period established in the **Federal Register** on March 29, 2010. Anyone seeking to submit comments must follow the procedures specified in section I.C of the announcement as published in the **Federal Register** (75 FR 15500, March 29, 2010).

The Safe Drinking Water Act (SDWA) requires the United States Environmental Protection Agency (EPA) to conduct a periodic review of existing National Primary Drinking Water Regulations (NPDWRs) and determine which, if any, need to be revised. The purpose of the review, called the Six-Year Review, is to identify those NPDWRs for which current health effects assessments, changes in technology, and/or other factors provide a health or technical basis to support a regulatory revision that will improve or strengthen public health protection. EPA has completed its detailed review of 71 NPDWRs and at this time believes that four NPDWRs are candidates for regulatory revision. These four NPDWRs are acrylamide, epichlorohydrin, tetrachloroethylene, and trichloroethylene. EPA requests public comment and/or relevant information that will assist the Agency as we move forward with regulatory action to revise these four NPDWRs. In addition to the 71 NPDWRs discussed in detail in today's action, this review also includes 14 other NPDWRs that need no detailed review because of recent or ongoing revision actions. See the results as published in **Federal Register** (75 FR 15500, March 29, 2010).

Dated: May 24, 2010.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2010–12915 Filed 5–28–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9157–1]

National Environmental Justice Advisory Council; Notification of Public Teleconference and Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Notification of Public Teleconference Meeting and Public Comment.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the U.S. Environmental Protection Agency (EPA) hereby provides notice that the National Environmental Justice Advisory Council (NEJAC) will host a public teleconference meeting on Tuesday, June 15, 2010, starting at 1 p.m. Eastern Time. The primary purpose of the teleconference meeting is to discuss EPA's activities related to the Gulf of Mexico oil spill, including cleanup and recovery actions, and the impacts of the spill on coastal environmental justice communities. There will be a public comment period from 2:30 p.m. to 4 p.m. Eastern Time. Members of the public are invited to provide comments relevant to the topic of this teleconference meeting. Specifically, the NEJAC is seeking input about: (1) The scope of disaster preparedness efforts within communities, (2) how should EPA engage other Federal, State, Tribal, and local governments to ensure that coastal planning and protection efforts are a high priority, and (3) how should EPA engage communities around the environmental cleanup and recovery actions.

Registration

Registration is required. A finite number of telephone lines will be reserved for the call. Full capacity is anticipated, so you are highly encouraged to register early by:

- *E-mail:* Send an e-mail to *NEJACJune2010meeting@Always PursuingExcellence.com* with "Register for the June NEJAC Teleconference" in the subject line. Please provide your name, organization, address, e-mail and telephone number for future follow-up as necessary.
- *Phone or Fax:* Send a fax (please print), or leave a voice message, with your name, organization, address, e-mail and telephone number to 877–773–1489.

Registration will close Friday, June 11, 2010 at Noon Eastern Time. For additional information about registering to attend the meeting or to provide public comment, *please see* **SUPPLEMENTARY INFORMATION.**

DATES: The NEJAC teleconference meeting on June 15, 2010 will begin promptly at 1 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: APEX Direct Inc., by phone or fax at 877–773–1489, or by e-mail at *NEJACJune2010meeting@AlwaysPursuingExcellence.com*. Please provide your name, organization, and telephone number for follow-up as necessary. Non-English speaking attendees wishing to arrange for a foreign language interpreter also may make appropriate arrangements using these numbers.

Questions or correspondence concerning the teleconference meeting should be directed to Mr. Aaron Bell, U.S. Environmental Protection Agency, at 1200 Pennsylvania Avenue, NW., (MC2201A), Washington, DC 20460; by telephone at (202) 564–1044, via e-mail at *Bell.Aaron@epa.gov*; or by fax at (202) 564–1624. Additional information about this meeting and the NEJAC is available at the Internet Web site: *http://www.epa.gov/environmentaljustice/nejac/meetings.html*.

SUPPLEMENTARY INFORMATION: The Charter of the NEJAC states that the advisory committee shall provide independent advice to the Administrator on areas that may include, among other things, "advice about broad, cross-cutting issues related to environmental justice, including environment-related strategic, scientific, technological, regulatory and economic issues related to environmental justice. The June 15, 2010, teleconference meeting shall be used to discuss and receive comment about EPA activities related to the Gulf of Mexico oil spill, including cleanup and recovery actions, and the impacts of the spill on environmental justice communities along the Gulf Coast.

A. Public Comment: The NEJAC conducts public comment as a way of gathering stakeholder input which serves to inform the deliberations of the Council. Members of the public who wish to provide public comment must pre-register and sign up for comment by Noon Eastern Time Friday, June 11, 2010. Individuals or groups making remarks during the public comment period will be limited to a total time of five minutes each. Only one representative of a community, organization, or group will be allowed to speak. Written comments also may be submitted for the record. The suggested format for individuals providing public comments is as follows: Name of

Speaker, Name of Organization/Community, Address/Telephone/E-mail, Description of Concern and its Relationship to a Specific Policy Issue(s), and Recommendations or desired outcome. Written comments received by Noon Eastern Time Monday, June 14, 2010, will be included in the materials distributed to the members of the NEJAC. Written comments received after that time will be provided to the NEJAC as logistics allow. All written comments should be sent to EPA's support contractor, APEX Direct, Inc., via e-mail or fax as listed in the CONTACT section above.

B. Information about Services for Individuals with Disabilities: For information about access or services for individuals with disabilities, please contact EPA's support contractor, APEX Direct, Inc., listed in the **FOR FURTHER INFORMATION CONTACT** section above. To request special accommodations for a disability, please contact EPA's support contractor, APEX Direct, Inc., at least 10 days prior to the call, to allow EPA sufficient time to process your request. All requests should be sent to the address, e-mail, or fax number listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Dated: May 25, 2010.

Victoria Robinson,

Designated Federal Officer, National Environmental Justice Advisory Council.

[FR Doc. 2010–13091 Filed 5–28–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Renewal of Currently Approved Collections (3064–0079, 0103, 0104, 0122 & 0173); Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act, and Request for Comment.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of existing information collections, as required by the PRA. On March 16, 2010 (75 FR 12541), the FDIC solicited public comment for a 60-day period on renewal of the following five information collections: Application for Consent to Reduce or Retire Capital (OMB No. 3064–0079); Appraisal Standards (OMB No. 3064–0103); Activities and Investments of Savings Associations (OMB No. 3064–0104), Forms Relating to Outside Counsel, Legal Support & Expert Services (OMB No. 3064–0122); and Prepaid Assessments (OMB No. 3064–0173). No comments were received. Therefore, the FDIC hereby gives notice of submission of its requests for renewal to OMB for review.

DATES: Comments must be submitted on or before July 1, 2010.

ADDRESSES: Interested parties are invited to submit written comments. All comments should refer to the name of the collection. Comments may be submitted by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federa/lnotices.html.*
- *E-mail: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel, Federal Deposit Insurance Corporation, F–1072, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comments may also be submitted to the FDIC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper at the FDIC address above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collections of information:

1. *Title: Application for Consent to Reduce or Retire Capital (OMB No. 3064–0079) Estimated Number of Respondents and Burden Hours:*

FDIC document	Estimated number of respondents	Frequency of response	Estimated hours per response	Hours of burden
Application for Consent to Reduce or Retire Capital	80	1	1	80
Total	80			80

General Description of Collection

This collection requires insured state nonmember banks that propose to change their capital structure to submit an application containing information about the proposed change in order to obtain FDIC's consent to reduce or retire capital. The FDIC evaluates the information contained in the letter application in relation to statutory considerations and makes a decision to grant or to withhold consent.

2. *Title: Appraisal Standards (OMB No. 3064–0103) Estimated Number of Respondents and Burden Hours:*

FDIC document	Estimated number of respondents	Frequency of response	Estimated hours per response	Hours of burden
Appraisal Standards	277,600	1	.75	208,200
Total	277,600			208,200

General Description of Collection: This collection is provided for in 12 CFR Part 323 of FDIC's regulations. Part 323 implements a portion of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). Title XI of FIRREA is designed to provide protection for federal financial and public policy interests by requiring real estate appraisals used in connection with federally related transactions to be performed in writing, in accordance with uniform standards, by an appraiser whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

3. *Title: Activities and Investments of Savings Associations (OMB No. 3064–0104) Estimated Number of Respondents and Burden Hours:*

FDIC document	Number of respondents	Frequency of response	Hours per response	Hours of burden
Activity and Investment Applications	75	1	5	375
Total	75			375

General Description of Collection: Section 28 of the FDI Act (12 U.S.C. 1831e) imposes restrictions on the powers of savings associations, which reduce the risk of loss to the deposit insurance funds and eliminate some differences between the powers of state associations and those of federal associations. Some of the restrictions apply to all insured savings associations and some to state chartered associations only. The statute exempts some federal savings banks and associations from the restrictions, and provides for the FDIC to grant exemptions to other associations under certain circumstances. In addition, Section 18(m) of the FDI Act (12 U.S.C. 1828(m)) requires that notice be given to the FDIC prior to an insured savings association (state or federal) acquiring, establishing, or conducting new activities through a subsidiary.

4. *Title: Forms Relating to Outside Counsel, Legal Support & Expert Services (OMB No. 3064–0122) Estimated Number of Respondents and Burden Hours:*

FDIC document	Estimated number of respondents	Estimated hours per response	Hours of burden
5000/26	85	.50	42.5
5000/31	376	.50	188
5000/33	63	.50	31.5
5000/35	722	.50	361
5200/01	500	.75	500
5210/01	100	0.5	50
5210/02	55	0.5	22.5
5210/03	50	1.0	50
5210/03A	50	1.0	50
5210/04	200	1.0	200
5210/04A	200	1.0	200
5210/06	100	1.0	100
5210/06(A)	100	1.0	100
5210/08	240	0.5	120
5210/09	100	1.0	100
5210/10	100	1.0	100
5210/10(A)	100	1.0	100
5210/11	100	1.0	100
5210/12	100	1.0	100
5210/12A	100	1.0	100
5210/14	100	0.5	100
5210/15	25	.50	12.5
Total	3,558		2,735.25

General Description of Collection: The information collected enables the FDIC to ensure that all individuals, businesses and firms seeking to provide legal support services to the FDIC meet the eligibility requirements established by Congress. The information is also used to manage and monitor payments to contractors, document contract amendments, expiration dates, billable individuals, minority law firms, and to ensure that law firms, experts, and other legal support services providers are in compliance with statutory and regulatory requirements.

5. *Title: Prepaid Assessments: Application for Exemption, Application for Withdrawal of Exemption, and Transfer Notice (OMB No. 3064–0173)*

Estimated Number of Respondents and Burden Hours:

FDIC document	Number of respondents	Frequency of response	Hours per response	Hours of burden
A. Application for Exemption (Deadline passed on 12/31/09)	0	1	8	0
B. Application for Withdrawal of Exemption (Deadline passed on 12/31/09)	0	1	8	0

FDIC document	Number of respondents	Frequency of response	Hours per response	Hours of burden
C. Transfer of Assessments Notice	50	1	2	100
Total	50			100

General Description of Collection: The FDIC obtained emergency approval from OMB for three collections of information related to an amendment to the FDIC's assessment regulations that required insured depository institutions to prepay, on December 30, 2009, their estimated, quarterly, risk-based assessments for the fourth quarter of 2009, and for all of 2010, 2011, and 2012. The FDIC will begin to offset prepaid assessments on March 30, 2010, representing payment for the fourth quarter of 2009. Any prepaid assessment not exhausted by December 30, 2014, would be returned to the institution.

The deadline of 12/31/09 for applications for exemptions, or for applications for withdrawal of exemptions has passed, and there are no exceptions to the deadline. Transfers of assessments, however, are still permitted. When an insured depository institution enters into an agreement to transfer any portion of its prepaid assessment to another insured depository institution, it is required to notify the FDIC's Division of Finance of that transaction by submitting a written agreement signed by the legal representatives of both institutions, including documentation that each representative has the legal authority to bind the institution.

Request for Comment

Comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burdens of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 24th day of May 2010.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2010–13136 Filed 5–28–10; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 16, 2010.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. James E. Ukrop; The Third Amended and Restated James Edward Ukrop Revocable Trust, James E. Ukrop, Trustee; Robert Stephen Ukrop; The Amended and Restated Robert Stephen Ukrop Revocable Trust, Robert Stephen Ukrop, Trustee; Robert Scott Ukrop; The Amendment and Restatement of the Robert Scott Ukrop Revocable Declaration of Trust, Robert Scott Ukrop, Trustee; Joseph E. Ukrop; The Robert Stephen Ukrop, Revocable Trust, Joseph Ukrop, Jr., Trustee; Jacquelin Ukrop Aronson; The Nancy Joseph Ukrop Kantner Revocable Trust, Nancy Joseph Ukrop Kantner, Trustee; Robert Stephen Ukrop, Trustee of Trust f/b/o Nancy Joseph Ukrop Kantner; and Jayne B. Ukrop, Trustee of Trust f/b/o Nancy Joseph Ukrop Kantner, all of Richmond, Virginia; The Joseph Edward Ukrop Revocable Trust, Joseph E. Ukrop, Trustee; Robert Stephen Ukrop, Jr.; The Jeffrey Brown Ukrop Revocable Trust, Jeffrey Brown Ukrop, Trustee; Nancy Joseph Ukrop Kantner, all of Midlothian, Virginia; The Jacquelin Ukrop Aronson Revocable Trust, Jacquelin Ukrop Aronson, Trustee; and Jeffrey Brown Ukrop, Glen Allen, Virginia; to acquire voting shares of Union First Market Bankshares Corporation, and thereby indirectly acquire voting shares of Union First Market Bank, both of Richmond, Virginia.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Aaron Matthew Ness, Michael Forrest Ness and Robert Hunter Ness, as Co–Trustees of the Ness Irrevocable Family Trust; Diane Jean Ness, individually; Aaron Matthew Ness, individually; Robert Hunter Ness, individually, and as Trustee of the Robert Hunter Ness Roth IRA, all of Yankton, South Dakota; Michael Forrest Ness, Sioux Falls, South Dakota, individually; to join Larry F. Ness, Yankton, South Dakota, individually and as Trustee of the Larry F. Ness 2009 Grantor Retained Annuity Trust, Yankton, South Dakota, and as Trustee of the Larry F. Ness Individual Retirement Account, Yankton, South Dakota, as a group acting in concert; to retain current, and acquire additional voting shares of First Dakota Financial Corporation, and thereby indirectly retain current, and acquire additional voting shares of First Dakota National Bank, both of Yankton, South Dakota.

Board of Governors of the Federal Reserve System, May 26, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–13034 Filed 5–28–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank

holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 25, 2010.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. The Toronto–Dominion Bank, Toronto, Canada, and its subsidiaries TD US P&C Holdings ULC, Calgary, Canada, and TD Bank US Holding Company, Portland, Maine; to acquire at least 39 percent of the voting shares and to subsequently acquire additional voting shares of The South Financial Group, Inc., and thereby indirectly acquire voting shares of Carolina First Bank, both of Greenville, South Carolina.

Board of Governors of the Federal Reserve System, May 26, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–13033 Filed 5–28–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL MARITIME COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Maritime Commission.

ACTION: Final notice of submission for OMB review.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Federal Maritime Commission (FMC or Commission) hereby gives notice that it has submitted to the Office of Management and Budget a request for an extension of the existing collection requirements under 46 CFR part 535—Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984. The FMC has requested an extension of an existing collection as listed below.

DATES: Written comments must be submitted on or before July 6, 2010.

ADDRESSES: Comments should be addressed to:

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for FMC, 725—17th Street, NW., Washington, DC 20503, *OIRA_Submission@OMB.EOP.GOV,* Fax (202) 395–5806.

and to:

Ronald D. Murphy, Managing Director, Office of the Managing Director, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (202) 523–5800), *omd@fmc.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by contacting Jane Gregory on 202–523–5800 or e-mail: *jgregory@fmc.gov.*

SUPPLEMENTARY INFORMATION: A notice that FMC would be submitting this request was published in the **Federal Register** on March 24, 2010, (75 FR 14158–14159) allowing for a 60-day comment period. No comments were received.

The FMC 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.

Information Collection Open for Comment

Title: 46 CFR part 535—Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984.

OMB Control Number: 3072–0045 (Expires May 31, 2010).

Abstract: Section 4 of the Shipping Act of 1984, 46 U.S.C. 40301(a)–(c), identifies certain commercial agreements by or among ocean common carriers and marine terminal operators (MTOs) that fall within the jurisdiction of that Act. Section 5 of the Shipping Act, 46 U.S.C. 40302, requires that carriers file those agreements with the Federal Maritime Commission. Section 6 of the Act, 46 U.S.C. 40304, 40306, and 41307(b)–(d), specifies the Commission actions that may be taken with respect to filed agreements, including requiring the submission of additional information. Section 15 of the Act, 46 U.S.C. 40104, authorizes the Commission to require that common carriers, among other persons, file periodic or special reports. Requests for additional information and the filing of periodic or special reports are meant to assist the Commission in fulfilling its statutory mandate of overseeing the activities of the ocean transportation industry. These reports are necessary so that the Commission can monitor agreements parties' activities to determine how or if their activities will have an impact on competition.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The Commission staff uses the information filed by agreement parties to monitor their activities as required by the Shipping Act of 1984. Under the general standard set forth in section 6(g) of the Act, 46 U.S.C. 41307(b)(1), the Commission must determine whether filed agreements are likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost. If it is shown, based on information collected under this rule, that an agreement is likely to have the foregoing adverse effects, the Commission may bring suit in the U.S. District Court for the District of Columbia to enjoin the operation of that agreement. Other than an agreement filed under section 5 of the Act, the information collected may not be disclosed to the public except as may be relevant to an administrative or judicial proceeding, and disclosure to Congress.

Frequency: This information is collected generally on a quarterly basis or as required under the rules.

Type of Respondents: The types of respondents are ocean common carriers and MTOs subject to the Shipping Act of 1984.

Number of Annual Respondents: The Commission estimates a potential annual respondent universe of 589 entities.

Estimated Time Per Response: The average time for filing agreements, including the preparation and submission of information required on Form FMC–150, *Information Form for Agreements Between or Among Ocean*

Common Carriers, is estimated to be 8.3 person-hours per response. The average time for completing Form FMC–151, *Monitoring Report for Agreements Between or Among Ocean Common Carriers,* is estimated to be 20.7 person-hours per response, depending on the complexity of the required information. The average time for reporting for all responses is 7.1 person-hours.

Total Annual Burden: The Commission estimates the total person-hour burden at 10,402 person-hours.

Karen V. Gregory,

Secretary.

[FR Doc. 2010–13065 Filed 5–28–10; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: The Health Education Assistance Loan (HEAL) Program: Physician's Certification of Borrower's Total and Permanent Disability Form (OMB No. 0915–0204)—Extension

The Health Education Assistance Loan (HEAL) program provided federally-insured loans to students in schools of allopathic medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, allied health, or chiropractic, and graduate students in health administration or clinical psychology through September 30, 1998. Eligible lenders, such as banks, savings and loan associations, credit unions, pension funds, State agencies, HEAL schools, and insurance companies, made new refinanced HEAL loans which are insured by the Federal Government against loss due to borrower's death, disability, bankruptcy, and default. The basic purpose of the program was to assure the availability of funds for loans to eligible students who needed to borrow money to pay for their educational loans. Currently, the program monitors the federal liability, and assists in default prevention activities.

The HEAL borrower, the borrower's physician, and the holder of the loan completes the Physician's Certification form to certify that the HEAL borrower meets the total and permanent disability provisions. The Department uses this form to obtain detailed information about disability claims which includes the following: (1) The borrower's consent to release medical records to the Department of Health and Human Services and to the holder of the borrower's HEAL loans, (2) pertinent information supplied by the certifying physician, (3) the physician's certification that the borrower is unable to engage in any substantial gainful activity because of a medically determinable impairment that is expected to continue for a long and indefinite period of time or to result in death, and (4) information from the lender on the unpaid balance. Failure to submit the required documentation will result in disapproval of a disability claim. No changes have been made to the current form.

The estimate of burden for the Physician's Certification form is as follows:

Type of respondent	Number of respondents	Responses per respondents	Number of responses	Minutes per response	Total burden hours
Borrower	75	1	75	5	6
Physician	75	1	75	30	38
Loan Holder	13	6	78	10	13
Total	163	.....	228	.....	57

E-mail comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 30 days of this notice.

Dated: May 25, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–12966 Filed 5–28–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), 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 Cancer Institute Special Emphasis Panel, R13 Conference Grants Review.

Date: June 24, 2010.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Cancer of Institutes, 6116 Executive Boulevard, Room 8041, Rockville, MD 20852. (Telephone Conference Call.)

Contact Person: Bratin K. Saha, PhD, Scientific Review Officer, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8041, Bethesda, MD 20892. (301) 402–0371. *sahab@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Gastrointestinal Cancers.

Date: June 25, 2010.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, 6116 Executive Blvd., Room 8133, Rockville, MD 20852. (Telephone Conference Call.)

Contact Person: David G. Ransom, PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Rm. 8133, Bethesda, MD 20892–8328. 301–451–4757. *david.ransom@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 25, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–13031 Filed 5–28–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), 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 Deafness and Other Communication Disorders Special Emphasis Panel; P50 Clinical Research Center.

Date: June 15, 2010.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Susan Sullivan, PhD, Scientific Review Officer, National Institute of Deafness and Other, Communication Disorders, 6120 Executive Blvd., Ste. 400C, Rockville, MD 20852, 301–496–8683, *sullivas@mail.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 Institute on Deafness and Other Communication Disorders Special Emphasis Panel; CDRC Conflicts.

Date: June 22, 2010.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Christine A. Livingston, PhD, Scientific Review Officer, Division of Extramural Activities, National Institutes of Health/NIDCD, 6120 Executive Blvd.—MSC 7180, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.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. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: May 25, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–13032 Filed 5–28–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), 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 USC, as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Wound Healing and Biofilms.

Date: June 18, 2010.

Time: 12:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call)

Contact Person: Meredith D. Temple-O'Connor, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12C, Bethesda, MD 20892, (301) 594–2772, *templeocm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: May 25, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–13036 Filed 5–28–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), 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 USC, as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Review Group;

Biomedical Research and Research Training Review Subcommittee B.

Date: June 18, 2010.

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: Arthur L. Zachary, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–18, Bethesda, MD 20892, (301) 594–2886, *zacharya@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: May 25, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–13040 Filed 5–28–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Interest Projects (SIPs): Workplace Health Research Network (WHRN)—Coordinating Center, SIP 10–031 and WHRN—Collaborating Centers, SIP 10–032, Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 11 a.m.–5 p.m., June 29, 2010 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to "Workplace Health Research Network (WHRN)—Coordinating Center, SIP 10–031 and WHRN—Collaborating Centers, SIP 10–032, initial review."

Contact Person for More Information: Michelle Mathieson, Public Health Analyst, National Center for Chronic Disease and Health Promotion, Office of the Director, Extramural Research Program Office, CDC, 4770 Buford Highway, NE., Mailstop K–92, Atlanta, GA 30341, Telephone: (770) 488–3068, E-mail: *mth8@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 21, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–13101 Filed 6–01–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), 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 materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders K.

Date: June 21, 2010.

Time: 8 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Shanta Rajaram, PhD, Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20852. 301–435–6033. *Rajarams@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: May 20, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–12780 Filed 5–28–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director (ACD), Centers for Disease Control and Prevention—Ethics Subcommittee (ES)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned subcommittee:

Time and Date: 1 p.m.–3:30 p.m., June 17, 2010.

Place: Teleconference. To participate, please dial (866) 919–3560 and enter passcode 4168828 for access.

Status: Open to the public, limited only by availability of telephone ports. The public is welcome to participate during the public comment periods. A public comment period is tentatively scheduled for 3 p.m.–3:15 p.m.

Purpose: The ES will provide counsel to the ACD, CDC, regarding a broad range of public health ethics questions and issues arising from programs, scientists and practitioners.

Matter to be Discussed: Agenda items will include the following topics: Development of a strategy to support state and local health departments in their efforts to address public health ethics issues and coordination of these efforts with the CDC Office of State, Tribal, Local, and Territorial Support; steps for addressing ACD input on the ventilator guidance document; development of public health ethics cases; future priorities for the ES; and updates on CDC's public health ethics activities.

The agenda is subject to change as priorities dictate.

Contact Person for More Information: Drue Barrett, PhD, Designated Federal Officer, ACD, CDC–ES, 1600 Clifton Road, N.E., M/S D–50, Atlanta, GA 30333. Telephone: (404) 639–4690. E-mail: *dbarrett@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 21, 2010.

Elaine L. Baker,

Director, Management Analysis and Service Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–13014 Filed 5–28–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Interest Project (SIP): Provider and Public Health Input for Vaccine Policy Decisions SIP 10–036, Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 11 a.m.–5 p.m., June 18, 2010 (Closed)

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to "Provider and Public Health Input for Vaccine Policy Decisions, SIP 10–036."

Contact Person for More Information: Michelle Mathieson, Public Health Analyst, National Center for Chronic Disease and Health Promotion, Office of the Director, Extramural Research Program Office, 4770 Buford Highway, NE., Mailstop K–92, Atlanta, GA 30341, Telephone: (770) 488–3068, E-mail: *mth8@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 21, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–13011 Filed 5–28–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Interest Projects (SIPs): Outcomes of Screening American Indian/Alaska Native Women of Reproductive Age for Chronic Conditions in Reproductive Health Clinics & Technical Support for Health Systems Evaluations Within Africa and Asia under the President's Emergency Plan for AIDS Relief (PEPFAR) SIP 10–034 and SIP 10–038, Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92– 463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 1 p.m.–4 p.m., June 25, 2010 (Closed)

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to "Outcomes of Screening American Indian/Alaska Native Women of Reproductive Age for Chronic Conditions in Reproductive Health Clinics & Technical Support for Health Systems Evaluations within Africa and Asia under PEPFAR, SIP 10–034 and SIP 10–038."

Contact Person for More Information: Michelle Mathieson, Public Health Analyst, National Center for Chronic Disease and Health Promotion, Office of the Director, Extramural Research Program Office, 4770 Buford Highway, NE., Mailstop K–92, Atlanta, GA 30341, Telephone: (770) 488–3068, E-mail: *mth8@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 21, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–13104 Filed 5–28–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), 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 materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Dynamics of Host-Associated Microbial Communities (R01).

Date: June 24, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, Bethesda, MD 20814.

Contact Person: Arthur L. Zachary, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–12, Bethesda, MD 20892. (301) 594–2886. *zacharya@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: May 25, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–13042 Filed 5–28–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a Modified or Altered System of Records

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of a Modified or Altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, CMS is proposing to modify or alter existing system of records titled "National Provider System," System No. 09–70–0008. Under the authority of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Public Law (Pub. L.) 104–191, this system was established and published in the **Federal Register** (FR) at 63 FR 40297 (July 28, 1998). The system name "National Provider System" describes the original system designed to enumerate individual health care providers and maintain the information submitted in their application, the National Provider Identifier (NPI) Application/Update Form (Form CMS–10114). Expectation of the adoption of a standard unique health identifier for health plans would broaden the function of the system to enable it to assign health plan identifiers to health plans; as a result, the name of the system is proposed to read: the "National Plan and Provider Enumeration System (NPPES)." Although the **Federal Register** Notice (July 28, 1998) stated that both organizational providers and providers who are individuals are included in the NPS database, and the system may be expanded in the future to include enumerated health plans, this system of records will be applicable only to the collection and maintenance of information about enumerated health care providers who are individuals (*e.g.,* physicians and non-physician practitioners), containing the information they submitted on their NPI applications and their assigned NPI.

We propose to assign a new CMS identification number to this system to simplify the obsolete and confusing numbering system originally designed to identify the Bureau, Office, or Center that maintained information in the Health Care Financing Administration systems of records. The new assigned identifying number for this system should read: System No. 09–70–0555.

We propose to delete published routine use number 1 authorizing disclosure to Federal and Medicaid health plans that are enumerators and their agents. Published routine use number 1 will be deleted because the proposal to have Federal and Medicaid health plans serving as enumerators was not implemented.

We propose to delete published routine use number 2 authorizing disclosures to entities implementing or maintaining systems and data files necessary for compliance with Title XI, Part C of the Social Security Act because the information necessary for this use is available in accordance with the NPS Data Dissemination Notice (CMS–6060–N) published in the **Federal Register** on May 30, 2007.

We propose to delete routine use number 3 authorizing disclosure to support constituent requests made to a congressional representative. If an authorization for the disclosure has been obtained from the data subject, then no routine use is needed. The Privacy Act allows for disclosures with the "prior written consent" of the data subject.

We propose to delete published routine use number 4 authorizing disclosures to another Federal agency for use in processing research and statistical data related to the administration of its programs because the information from NPPES that would be used for this purpose is available in accordance with the Notice published in the **Federal Register** on May 30, 2007 (CMS–6060–N).

We propose to delete published routine use number 6 authorizing disclosures to an individual or organization for a research, demonstration, evaluation, or epidemiological project because the information in NPPES that would be used for this purpose is available in accordance with the Notice published in the **Federal Register** on May 30, 2007 (CMS–6060–N).

We propose to delete published routine use number 7 authorizing disclosures to contractors for the purpose of refining ADP or telecommunication systems or supporting records in the system. Disclosures allowed by published routine use number 7 will be covered by a new routine use for contractors, consultants, or grantees who have been contracted by the Agency to assist with a CMS assigned task and who need access to the records in order to complete that task. The new routine use will be numbered as routine use number 1.

We propose to delete routine use number 8 authorizing disclosures to an agency of the State government for purposes of determining effectiveness of health care services provided in the State because the information in NPPES that would be used for this purpose is available in accordance with the Notice published in the **Federal Register** on May 30, 2007 (CMS–6060–N).

We propose to delete in part routine use number 9 authorizing disclosures to another Federal or State agency to fulfill a Federal or State statute or regulation that implements a program funded in whole or in part with Federal funds because the information in NPPES that would be used for this purpose is available in accordance with the Notice published in the **Federal Register** on May 30, 2007 (CMS–6060–N). We retain routine use number 9 for purposes of identifying health care providers for Debt Collection Information Act of 1996 and the Balanced Budget Act of 1997 and include this as routine use number 2.

Routine use number 5 authorizing disclosures to the Department of Justice, to a court or other tribunal, or to another party before such tribunal, is revised for clarity and is renumbered as routine use number 3.

We have added two new routine uses for the purposes of combating fraud, waste, and abuse in CMS-administered health benefits programs and to support other Federal agencies, States, and local government agencies in combating fraud, waste, and abuse in programs funded in whole or in part by Federal funds. These two routine uses are routine use numbers 4 and 5.

In addition, we propose to add a new routine use to disclose information maintained in this system to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in the system. This new routine use will be numbered as routine use 6.

The security classification previously reported as "None" will be modified to reflect that data in this system are considered to be "Level Three Privacy Act Sensitive." We are modifying the language in the remaining routine uses to provide a proper explanation as to the need for the routine use and to provide clarity to CMS's intention to disclose individual-specific information contained in this system. We will also take the opportunity to update any sections of the System of Records Notice that were affected by the reorganization of CMS or to update language in the administrative sections to correspond with language used in other CMS SORs where appropriate.

The purpose of the NPPES is to collect and maintain, on behalf of the Secretary, information needed to

uniquely identify an individual physician or non-physician practitioner, assign a National Provider Identifier (NPI) to that physician or non-physician practitioner, and maintain and update the information in that health care provider's record in NPPES. Information maintained in this system will also be disclosed to: (1) Support the NPI Enumerator and other agency contractors who need NPPES data to perform their contractual requirements; (2) to assist Federal and State agencies to identify health care providers for debt collection under Federal statutes; (3) to assist the Department of Justice in litigation; (4) to support CMS contractors in combating fraud, waste, and abuse in CMS-administered health benefits programs; (5) to support other Federal agencies or States in combating fraud, waste, and abuse in federally-funded programs; and (6) to assist Federal agencies in responding to security breaches of information contained in NPPES. We have provided background information about the system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice. *See* "Effective Dates" section for comment period.

DATES: *Effective Dates:* CMS filed a modified or altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security & Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on May 25, 2010. To ensure that all parties have adequate time in which to comment, the modified system, including routine uses, will become effective 30 days from the publication of the notice, or 40 days from the date it was submitted to OMB and Congress, whichever is later, unless CMS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: CMS Privacy Officer, Division of Information Security and Privacy Management, Enterprise Architecture and Strategy Group, Office of Information Services, CMS, Room N2–24–08, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.—3 p.m., Eastern Time zone.

FOR FURTHER INFORMATION CONTACT: Patricia Peyton, Office of Financial Management, Program Integrity Staff, Division of Provider/Supplier Enrollment, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop C3–02–16, Baltimore, Maryland 21244–1850. The telephone number is 410–786–1812 or contact *Patricia.Peyton@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Description of the Modified or Altered System of Records

A. Statutory and Regulatory Basis for this SOR

Authority for maintenance of this system is given under §§ 1173 and 1175 of the Act; as amended by Public Law 104–191, authorize the assignment of a unique identifier to all health care providers and the maintenance of a data base containing the information they furnished in their application for an NPI.

B. Collection and Maintenance of Data in the System

For purposes of this SOR, the system contains information related to health care providers who are individuals who have applied for and have been assigned a NPI. The definition of a health care provider is limited to those entities that furnish or bill and are paid for, health care services in the normal course of business. The statutory definition of a health care provider is found at 45 CFR 160.103.

The system contains name(s), demographic information, (gender, date of birth), provider taxonomy information, address data, contact information, practice location information, and certain optional information such as social security numbers and provider identifiers assigned to these health care providers by health plans.

II. Agency Policies, Procedures, and Restrictions on Routine Use

A. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a "routine use." The government will only release NPPES information that can be associated with an individual as provided for under "Section III. Proposed Routine Use Disclosures of Data in the System." Both individually identifiable and non-individually-identifiable data may be disclosed under a routine use.

We will only disclose the minimum personal data necessary to achieve the purpose of NPPES. CMS has the following policies and procedures concerning disclosures of information that is maintained in the system. Disclosure of information from the system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected; *e.g.,* maintain information to uniquely identify an individual physician or non-physician practitioner, assign a National Provider Identifier (NPI) to that physician or non-physician practitioner, and maintain and update information about that physician or non-physician.

2. Determines that:

a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record;

b. Remove or destroy at the earliest time all individually-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a "routine use." The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support Agency contractors (such as the NPI Enumerator contractor), consultants, or grantees that have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need access to the records in order to assist CMS.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing a CMS function relating to purposes for this system.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, consultant, or grantee whatever information is necessary for the contractor, consultant, or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor, consultant, or grantee from using or disclosing the information for any purpose other than that described in the contract and requires the contractor or consultant to return or destroy all information at the completion of the contract.

2. To assist another Federal or State agency, agency of a State government, agency established by State law, or its fiscal agent to identify health care providers for debt collection under the provisions of the Debt Collection Information Act of 1996 and the Balanced Budget Act of 1997.

3. Federal or State agencies, agencies of State governments, agencies established by State law, or their fiscal agents may need NPPES data to assist them in collecting debts from health care providers as authorized by the Debt Collection Information Act of 1996 and the Balanced Budget Act of 1997. To assist the Department of Justice (DOJ), court, or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government is a party of litigation or has an interest in such litigation and, by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court, or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court, or adjudicatory body involved.

4. To support a CMS contractor that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such programs.

5. We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contract or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud, waste, or abuse.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

6. To support another Federal agency or an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency) that administers, or that has the authority to investigate, potential fraud or abuse in a program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such programs.

Other agencies may require NPPES information for the purpose of combating fraud, waste, or abuse in such Federally-funded programs.

7. To assist appropriate Federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, and the information disclosed is relevant and unnecessary for the assistance.

Other Federal agencies and contractors may require NPPES information for the purpose of assisting in a response to a suspected or confirmed breach of the security or confidentiality of information.

IV. Safeguards

CMS has safeguards in place for authorized users and monitors such users to ensure against unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements to maintain the confidentiality of protected information.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

V. Effects of the Modified System of Records on Individual Rights

CMS proposes to modify this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will take precautionary measures (*see* item IV above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of physicians and non-physician practitioners whose data are maintained in the system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make

disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, in accordance with an applicable exception provision of the Privacy Act. CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of information relating to individuals.

Dated: May 25, 2010.

Michelle Snyder,

Deputy Chief Operating Officer, Centers for Medicare & Medicaid Services.

SYSTEM NUMBER: 09–70–0555

SYSTEM NAME:

"National Plan and Provider Enumeration System" (NPPES), HHS/CMS/OFM".

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data.

SYSTEM LOCATION:

The Centers for Medicare & Medicaid Services (CMS) Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

For purposes of this SOR, the system contains information related to health care providers who are individuals who have applied for and have been assigned a NPI. The definition of a health care provider is limited to those entities that furnish or bill and are paid for, health care services in the normal course of business. The statutory definition of a health care provider is found at 45 CFR 160.103.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains name(s), demographic information, (gender, date of birth), provider taxonomy information, address data, contact information, practice location information, and certain optional information such as social security numbers and provider identifiers assigned to these health care providers by health plans.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of this system is given under §§ 1173 and 1175 of the Act; as amended by Public Law 104–191, authorize the assignment of a unique identifier to all health care providers and the maintenance of a data base on containing the information they furnished in their application for an NPI.

PURPOSE(S) OF THE SYSTEM:

The purpose of the NPPES is to collect and maintain, on behalf of the Secretary, information needed to uniquely identify an individual physician or non-physician practitioner, assign a National Provider Identifier (NPI) to that physician or non-physician practitioner, and maintain and update the information in that health care provider's record in NPPES. Information maintained in this system will also be disclosed to: (1) Support the NPI Enumerator and other agency contractors who need NPPES data to perform their contractual requirements; (2) to assist Federal and State agencies to identify health care providers for debt collection under Federal statutes; (3) to assist the Department of Justice in litigation; (4) to support CMS contractors in combating fraud, waste, and abuse in CMS-administered health benefits programs; (5) to support other Federal agencies or States in combating fraud, waste, and abuse in federally-funded programs; and (6) to assist Federal agencies in responding to security breaches of information contained in NPPES.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a "routine use." The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support Agency contractors (such as the NPI Enumerator contractor), consultants, or grantees that have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need access to the records in order to assist CMS.

2. To assist another Federal or State agency, agency of a State government, agency established by State law, or its fiscal agent to identify health care providers for debt collection under the provisions of the Debt Collection Information Act of 1996 and the Balanced Budget Act of 1997.

3. To assist the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

4. To support a CMS contractor that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such programs.

5. To support another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in a program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such programs.

6. To assist appropriate Federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, and the information disclosed is relevant and unnecessary for the assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on paper and magnetic disk.

RETRIEVABILITY:

Magnetic media records are retrieved by the name of the health care provider or the NPI. Paper records are retrieved alphabetically by name of health care provider or the NPI.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such

users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements to maintain the confidentiality of protected information.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

RETENTION AND DISPOSAL:

CMS will retain identifiable data indefinitely in accordance with 69 FR 3434.

SYSTEM MANAGERS AND ADDRESS:

Director, Division of Provider/Supplier Enrollment, Office of Financial Management, CMS, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

For purpose of access by a subject individual, the subject individual may access to view or update his or her own record in NPPES by using his or her NPPES User ID and password or the subject individual should write to the system manager who will require the system name, the subject individual's SSN, and, for verification purposes, the subject individual's name (woman's maiden name, if applicable). NPPES data that are publicly available may be found in the NPI Registry at *https://nppes.cms.gov/NPPES/NPIRegistryHome.do* and in the downloadable monthly NPPES File at *http://nppesdata.cms.gov/CMS_NPI_files.html.*

RECORD ACCESS PROCEDURE:

For purpose of access, the same procedures outlined in Notification Procedures above are applicable to subject individuals. Other requestors must write to the system manager and specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5 (a)(2).)

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

Information contained in this system is received from the Form(s) CMS–10114, "National Provider Identifier Application/Update Form."

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 2010–12996 Filed 5–28–10; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3310–EM; Docket ID FEMA–2010–0002]

Minnesota; Amendment No. 1 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 Minnesota (FEMA–3310–EM), dated March 19, 2010, and related determinations.

DATES: *Effective Date:* April 26, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 emergency is closed effective April 26, 2010.

(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.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13047 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1898–DR; Docket ID FEMA–2010–0002]

Pennsylvania; 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 Commonwealth of Pennsylvania (FEMA–1898–DR), dated April 16, 2010, and related determinations.

DATES: *Effective Date:* May 24, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 Commonwealth of Pennsylvania is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 16, 2010.

All counties in the Commonwealth of Pennsylvania 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.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13027 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1916–DR; Docket ID FEMA–2010–0002]

Mississippi; 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 Mississippi (FEMA–1916–DR), dated May 14, 2010, and related determinations.

DATES: *Effective Date:* May 24, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 Mississippi is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 14, 2010.

Marshall and Union Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In 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.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13035 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1904–DR; Docket ID FEMA–2010–0002]

Connecticut; 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 Connecticut (FEMA–1904–DR), dated April 23, 2010, and related determinations.

DATES: *Effective Date:* May 17, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 May 17, 2010.

(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.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13041 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1915–DR; Docket ID FEMA–2010–0002]

South Dakota; 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 South Dakota (FEMA–1915–DR), dated May 13, 2010, and related determinations.

DATES: *Effective Date:* May 24, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 South Dakota is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 13, 2010.

Moody County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In 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.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13030 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1912–DR; Docket ID FEMA–2010–0002]

Kentucky; Amendment No. 2 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 Commonwealth of Kentucky (FEMA–1912–DR), dated May 11, 2010, and related determinations.

DATES: *Effective Date:* May 24, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 11, 2010.

Henry, Montgomery, and Nicholas Counties for Individual Assistance.

Breckinridge, Butler, Clay, Clinton, Estill, Hancock, Henderson, Hopkins, Knott, Larue, Mason, Ohio, Russell, Taylor, and Wayne Counties for Public Assistance.

Anderson, Elliot, Fleming, Green, Jackson, Leslie, Magoffin, Owen, Powell, and Pulaski Counties for Individual Assistance and Public Assistance.

Allen, Barren, Boyle, Garrard, Hart, Jessamine, Menifee, Monroe, Nelson, Simpson, Warren, and Washington Counties for Individual Assistance (already designated for Public Assistance.)

Boyd and Greenup Counties for Public Assistance (already designated for Individual Assistance.)

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In 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.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13026 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1900–DR; Docket ID FEMA–2010–0002]

Minnesota; Amendment No. 2 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 Minnesota (FEMA–1900–DR), dated April 19, 2010, and related determinations.

DATES: *Effective Date:* April 26, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 April 26, 2010.

(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.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13020 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1909–DR; Docket ID FEMA–2010–0002]

Tennessee; Amendment No. 7 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Tennessee (FEMA–1909–DR), dated May 4, 2010, and related determinations.

DATES: *Effective Date:* May 19, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 Tennessee is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 4, 2010.

Cannon, Giles, and Marshall Counties for Individual Assistance.

Cannon, Giles, Marshall, and Pickett Counties for Public Assistance, including direct Federal assistance.

Benton, Cheatham, Chester, Clay, Crockett, Decatur, Dyer, Gibson, Hardin, Haywood, Henderson, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lewis, Madison, McNairy, Montgomery, Obion, Smith, Stewart, Tipton, Wayne, and Wilson Counties for Public Assistance (Categories C–G) already designated for Individual Assistance and assistance for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance 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.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13081 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1909–DR; Docket ID FEMA–2010–0002]

Tennessee; Amendment No. 8 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Tennessee (FEMA–1909–DR), dated May 4, 2010, and related determinations.

DATES: *Effective Date:* May 18, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 May 18, 2010.

(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.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13074 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1909–DR; Docket ID FEMA–2010–0002]

Tennessee; Amendment No. 9 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Tennessee (FEMA–1909–DR), dated May 4, 2010, and related determinations.

DATES: *Effective Date:* May 24, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 Tennessee is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 4, 2010.

Campbell and Henry Counties for Public Assistance, including direct Federal assistance.

Carroll, Davidson, DeKalb, Dickson, Fayette, Hardeman, Lawrence, Macon, Maury, Perry, Robertson, Rutherford, Shelby, Sumner, Trousdale, and Williamson Counties for Public Assistance (Categories C–G) already designated for Individual Assistance and assistance for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance 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.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13028 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1914–DR; Docket ID FEMA–2010–0002]

South Dakota; 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 South Dakota (FEMA–1914–DR), dated May 13, 2010, and related determinations.

DATES: *Effective Date:* May 13, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 May 13, 2010, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of South Dakota resulting from a severe winter storm on April 2, 2010, 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 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of South Dakota.

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 and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance 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, Nancy M. Casper, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of South Dakota have been designated as adversely affected by this major disaster:

Corson, Perkins, and Ziebach Counties for Public Assistance.

All counties within the State of South Dakota 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.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13025 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1916–DR; Docket ID FEMA–2010–0002]

Mississippi; 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 Mississippi (FEMA–1916–DR), dated May 14, 2010, and related determinations.

DATES: *Effective Date:* May 14, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 May 14, 2010, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Mississippi resulting from severe storms, tornadoes, and flooding during the period of May 1–2, 2010, 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 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Mississippi.

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 Individual Assistance and Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and Other Needs Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Michael Bolch, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Mississippi have been designated as adversely affected by this major disaster:

Alcorn, Benton, Lafayette, Tippah, and Tishomingo Counties for Individual Assistance.

Alcorn, Benton, Prentiss, Tippah, and Tishomingo Counties for Public Assistance.

All counties within the State of Mississippi 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.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13023 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1912–DR; Docket ID FEMA–2010–0002]

Kentucky; 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 Commonwealth of Kentucky (FEMA–1912–DR), dated May 11, 2010, and related determinations.

DATES: *Effective Date:* May 11, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 May 11, 2010, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the Commonwealth of Kentucky resulting from severe storms, flooding, mudslides, and tornadoes beginning on May 1, 2010, and continuing, 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 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the Commonwealth of Kentucky.

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 Individual Assistance and Public Assistance in the designated areas, and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance, Hazard Mitigation, and Other Needs Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Douglas G. Mayne, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of Kentucky have been designated as adversely affected by this major disaster:

Casey, Lewis, Lincoln, Logan, Metcalfe, Rockcastle, Rowan, and Woodford Counties for Individual Assistance.

Allen, Hart, Lewis, Logan, Metcalfe, Monroe, and Rockcastle Counties for Public Assistance.

All counties within the Commonwealth of Kentucky 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.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13077 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1913–DR; Docket ID FEMA–2010–0002]

New Hampshire; 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 New Hampshire (FEMA–1913–DR), dated May 12, 2010, and related determinations.

DATES: *Effective Date:* May 12, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 May 12, 2010, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of New Hampshire resulting from severe storms and flooding during the period of March 14–31, 2010, 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 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of New Hampshire.

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 and Hazard Mitigation throughout the State. Direct Federal assistance is authorized. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance 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, James N. Russo, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of New Hampshire have been designated as adversely affected by this major disaster:

Rockingham County for Public Assistance. Direct Federal assistance is authorized.

All counties within the State of New Hampshire 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.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13044 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1915–DR;Docket ID FEMA–2010–0002]

South Dakota; 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 South Dakota (FEMA–1915–DR), dated May 13, 2010, and related determinations.

DATES: *Effective Date:* May 13, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 May 13, 2010, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of South Dakota resulting from flooding beginning on March 10, 2010, and continuing, 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 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of South Dakota.

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 and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance 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, Nancy M. Casper, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of South Dakota have been designated as adversely affected by this major disaster:

Aurora, Beadle, Brown, Brule, Buffalo, Charles Mix, Clark, Clay, Codington, Day, Edmunds, Faulk, Grant, Hamlin, Hanson, Hutchinson, Hyde, Jerauld, Kingsbury, Lyman, Marshall, McCook, McPherson, Miner, Roberts, Sanborn, Spink, Sully, Turner, and Union Counties for Public Assistance.

All counties within the State of South Dakota 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.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13029 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1913–DR; Docket ID FEMA–2010–0002]

New Hampshire; 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 New Hampshire (FEMA–1913–DR), dated May 12, 2010, and related determinations.

DATES: *Effective Date:* May 24, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 New Hampshire is hereby amended to include the following area among the area determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 12, 2010.

Hillsborough County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In 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.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13037 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1907–DR; Docket ID FEMA–2010–0002]

North Dakota; 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 North Dakota (FEMA–1907–DR), dated April 30, 2010, and related determinations.

DATES: *Effective Date:* May 24, 2010.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Recovery 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 North Dakota is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 30, 2010.

Eddy and McIntosh Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in 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.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–13039 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF THE INTERIOR

Central Utah Project Completion Act

AGENCY: Department of the Interior, Office of the Assistant Secretary—Water and Science.

ACTION: Notice of Availability of the Finding of No Significant Impact Associated with the Environmental Assessment for Wasatch County Water Efficiency Project Recycled Water Project.

SUMMARY: On April 23, 2010, the Department of the Interior (Interior), signed a Finding of No Significant Impact (FONSI) which documents the selection of the Proposed Action as presented in the Final Environmental Assessment (EA) for the Wasatch County Water Efficiency Project Recycled Water Project. Interior has determined that implementing the Proposed Action described in the EA will not have a significant impact on the quality of the human environment and that an environmental impact statement is not required. This project anticipates conveying recycled water in the facilities of the Wasatch County Water Efficiency Project (WCWEP), Bonneville Unit, Central Utah Project (CUP). It would provide an opportunity for more effective and efficient management of water, make efficient use of recycled water, provide opportunities for stream and wetland benefits, and encourage the conservation and wise use of water, all of which are objectives of the CUP Completion Act.

The proposed action would allow recycled water to be conveyed and used in WCWEP facilities and through exchange become CUP water. All water supply commitments under the existing contracts and agreements will continue to be met.

A copy of the Final EA and FONSI may be accessed on the Internet at *http://www.cuwcd.com.* CD and paper copies can be obtained by contacting: Sarah Sutherland, 355 West University Parkway, Orem, UT 84058, *sarah@cuwcd.com,* 801.226.7146.

FOR FURTHER INFORMATION CONTACT: Additional information may be obtained by contacting Mr. Lynn Hansen, Central Utah Project Completion Act Office, 302 East 1860 South, Provo, Utah 84606, by calling (801) 379–1238, or e-mail at *lhansen@usbr.gov.*

Dated: May 24, 2010.

Reed R. Murray,

Program Director, Central Utah Project Completion Act Department of the Interior.

[FR Doc. 2010–13016 Filed 5–28–10; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–R–2010–N042; 30136–1265–0000–S3]

Swan Lake National Wildlife Refuge, Chariton County, MO

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: draft comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan (CCP) and draft environmental assessment (EA) for Swan Lake National Wildlife Refuge (NWR) for public review and comment. In this draft CCP/EA we describe how we propose to manage the refuge for the next 15 years.

DATES: To ensure consideration, we must receive your written comments by July 5, 2010. An open house style meeting will be held during the comment period to receive comments and provide information on the draft plan. Special mailings, newspaper articles, internet postings, and other media announcements will inform people of the meetings and opportunities for written comments.

ADDRESSES: Comments or requests for more information can be sent by any of the following methods. You may also drop off comments in person at Swan Lake NWR.

1. *Agency Web site:* View or download a copy of the document and comment at *http://www.fws.gov/midwest/planning/SwanLake/index.html.*

2. *E-mail: r3planning@fws.gov.* Include "Swan Lake Draft CCP/EA" in the subject line of the message.

3. *Fax:* 660–856–3687.

4. *Mail:* Attention: Refuge Manager, Swan Lake National Wildlife Refuge, 16194 Swan Lake Avenue, Sumner, Missouri 64681.

FOR FURTHER INFORMATION CONTACT: Steve Whitson, 660–856–3323.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Swan Lake NWR, which we began by publishing a notice of intent on (71 FR 20722–20723, April 21, 2006). For more about the initial process and the history of this refuge, see that notice.

Swan Lake NWR was established in 1937 by Executive Order 7563 to serve as a refuge and breeding ground for migratory birds and other wildlife. The Refuge includes 10,670 acres and is also responsible for managing 57 easements and outlying fee title tracts scattered across 15 counties in Missouri.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), requires us to develop a comprehensive conservation plan for each national wildlife refuge. The purpose in developing a CCP is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

CCP Alternatives and Our Preferred Alternative

Priority Issues

During the public scoping process, we, other stakeholders and partners, and the public identified several priority issues, which include habitat management, sedimentation, flooding, and demand for additional recreation opportunities and visitor services. To address these issues, we developed and evaluated the following alternatives during the planning process.

Alternative 1: Current Management Direction and Activities (No Action)

The current management direction of Swan Lake NWR would be maintained under this alternative. For NEPA purposes, this is referred to as the "No Action" alternative, a misnomer as some changes will occur over the next 15 years. Management includes conservation, restoration, and preservation but occurs opportunistically as budgets allow. Farming and water management would continue in those areas where it currently exists. Some programs, especially environmental education and outreach, would see improvements only if budgets increase in the future.

Alternative 2

Under Alternative 2, we will focus on restoring Refuge streams as free flowing streams with fluctuating water levels and increasing the amount of native habitats. Many of the constructed management areas (moist soil units, open waters, and agricultural areas) are restored to more natural or historic landscape conditions. Duck and small game hunting are introduced as well as increased seasonal access for wildlife observation.

Alternative 3: (Preferred Alternative)

Under Alternative 3, we will mimic components of historic hydrologic function within Refuge streams by allowing seasonal and annual variations in water levels. Manage up to 1,300 acres of emergent wetland habitat using moist soil techniques. Increase the amount of wet meadow and native prairie and reduce the amount of cropland. We will increase opportunities for hunting and wildlife observation as in Alternative 2, but also increase emphasis on interpretation and education and develop additional volunteer opportunities.

Public Meeting

We will give the public an opportunity to provide input at a public meeting. You can obtain the schedule from the address or Web site listed in this notice (*see* **ADDRESSES**). You may also submit comments anytime during the comment period.

Public Availability of Comments

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

Dated: April 6, 2010.

Christopher P. Jensen,

Acting Regional Director, U.S. Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 2010–13009 Filed 5–28–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–R–2009–N208; BAC–4311–K9–S3]

Draft Comprehensive Conservation Plan and Environmental Assessment; Canaan Valley National Wildlife Refuge, Tucker County, WV

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the draft comprehensive conservation plan (CCP) and draft environmental assessment (EA) for Canaan Valley National Wildlife Refuge (NWR) for a 45-day public review and comment period. The draft CCP/EA describes four alternatives, including our Service-preferred alternative B, for managing this refuge for the next 15 years. Also available for public review and comment are the draft compatibility determinations, which are included as appendix B in the draft CCP/EA.

DATES: To ensure our consideration of your written comments, please send them by July 16, 2010. We will also hold public meetings. We will announce and post details of the public meetings in local news media, via our project mailing list, and on our regional planning Web site, *http://www.fws.gov/northeast/planning/Canaan%20Valley/ccphome.html.*

ADDRESSES: Send your comments or requests for copies of the draft CCP/EA by one of the following methods. You may also drop off comments in person at Canaan Valley NWR, located off Route 32 in Davis, West Virginia.

U.S. Mail: Beth Goldstein, Natural Resource Planner, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035.

Facsmile: Attention: Beth Goldstein, 413–253–8468.

Electronic Mail: northeastplanning@fws.gov. Include "Canaan Valley NWR CCP" in the subject line of your e-mail.

Agency Web Site: View or download the draft document on the Web at *http://www.fws.gov/northeast/planning/Canaan%20Valley/ccphome.html.*

FOR FURTHER INFORMATION CONTACT: Jonathan Schafler, Refuge Manager, Canaan Valley NWR, HC 70, P.O. Box 200, Davis, WV 26260; phone: 304–866–3858; facsimile: 304–866–3852; electronic mail: *fw5rw_cvnwr@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

This notice continues the CCP process for Canaan Valley NWR. We prepared the draft CCP in compliance with the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), and the National Wildlife Refuge System Administration Act of 1966 (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act), which requires us to develop a CCP for each national wildlife refuge. We published our original notice of intent to prepare a CCP in the **Federal Register** on January 22, 2007 (72 FR 2709).

The 16,183-acre Canaan Valley NWR was established in 1994 to conserve and protect fish and wildlife resources and the unique wetland and upland habitats of this high elevation valley. The refuge is located in Tucker County, West Virginia, and has an approved acquisition boundary of 24,000 acres. It includes the largest wetland complex in the State, and encompasses the headwaters of the Blackwater and Little Blackwater rivers. The refuge supports species of concern at both the Federal and State levels, including the West Virginia northern flying squirrel, bald eagle, and the Federal listed Cheat Mountain salamander and Indiana bat. Its dominant habitats include wet meadows, peatlands, shrub and forested swamps, beaver ponds and streams, northern hardwood forest, old fields and shrubland, and managed grassland.

Refuge visitors engage in wildlife observation and photography, environmental education, interpretation, hunting, and fishing. Management activities include maintaining and perpetuating the ecological integrity of the Canaan Valley wetland complex; perpetuating the ecological integrity of upland northern hardwood and northern hardwood-conifer forests to sustain wildlife and plant communities; providing a diversity of successional habitats in upland and wetland-edge shrublands, grasslands, old fields, and hardwood communities; and supporting wildlife-dependent recreation and education.

Background

The CCP Process

The purpose for developing CCPs is to provide refuge managers with 15-year plans for achieving refuge purposes and the mission of the National Wildlife Refuge System, in conformance with sound principles of fish and wildlife management and conservation, legal mandates, and Service policies. In addition to outlining broad management

direction on conserving wildlife and their habitats, CCPs identify opportunities for wildlife-dependent recreation available to the public, which includes opportunities for hunting, fishing, observing and photographing wildlife, and participating in environmental education and interpretation programs. We will review and update each CCP at least every 15 years, in accordance with the Administration Act.

Public Outreach

In September 2006, we distributed an issues workbook/planning newsletter to more than 2,000 names on our mailing list, asking people about their interest in the refuge and whether they had issues or concerns they would like us to address. We also posted the newsletter and workbook online for people to complete electronically, and we electronically mailed it to our stakeholder's mailing list, which was developed with help from the U.S. Geological Survey. In October 2006 and January 2007, we held public scoping meetings in Elkins, Parsons, Thomas, and Davis, West Virginia. The purposes of those meetings was to share information on the planning process, review the workbook results, and solicit new management issues and concerns. Throughout the process, we have conducted additional outreach via participation in community meetings, events, and other public forums, and requested public input on managing the refuge and its programs.

Some key issues expressed by the public included:

- Create trail connections on- and off-refuge;
- Allow multiple recreational uses on refuge trails while minimizing user conflicts;
- Increase opportunities for interpretation and education by providing more guided walks, programs, and brochures;
- Re-route existing trails to decrease erosion;
- Evaluate the refuge for wilderness designation;
- Improve woodcock habitat by cutting alder and aspen, and by grazing shrublands;
- Provide more opportunities for hunting;
- Reduce or eliminate hunting on the refuge; and
- Allow more vehicle access for deer hunting.

CCP Actions We Are Considering, Including the Service-Preferred Alternative

We developed four management alternatives based on the purposes for establishing the refuge, its vision and goals, and the issues and concerns of the public, State agencies, and the Service that arose during the planning process. The alternatives share some actions in common, such as protecting wetlands and rare plant communities, controlling invasive plant species, addressing climate change, protecting cultural resources, distributing refuge revenue sharing payments, and continuing our role in land conservation partnerships.

The draft CCP/EA describes the alternatives in detail and relates them to the issues and concerns. Highlights follow.

Alternative A (Current Management)

This alternative is the "No Action" alternative required by NEPA. Alternative A defines our current management activities, including those planned, funded, or underway, and serves as the baseline against which to compare the other three action alternatives. It would maintain our present level of approved refuge staffing and the biological and visitor services programs now in place. It would continue the following priorities of the biological program: Shrubland and grassland management for migratory birds; protection and monitoring of threatened and endangered species; red spruce and balsam fir community restoration; upland and wetland habitat restoration; invasive plant monitoring and eradication; and rare plant and animal conservation. We would continue efforts to protect the federally threatened Cheat Mountain salamander, the federally endangered Indiana bat, and the recently delisted West Virginia northern flying squirrel by monitoring known populations, inventorying suitable habitat for new populations, and researching habitat limitations. We would continue to offer a hunt program that is in accordance with State seasons. We would maintain current access sites for fishing and boating, and current trails for wildlife observation and photography. We would continue to offer our current level of environmental education and interpretation programs as staffing and funding allows. Finally, we would continue to collaborate with partners to promote the natural resources of Canaan Valley through outreach and public awareness.

Alternative B (Emphasis on Focal Species)

This alternative represents the combination of actions we believe most effectively achieves the purposes and goals of the refuge and would make an important contribution to conserving Federal trust resources in West Virginia and the central Appalachians. It is the alternative that would most effectively provide low-impact wildlife-dependent recreation and would address the significant issues in Chapter 1 of the draft CCP/EA. It builds on the programs identified under current management. It is designed to balance the conservation of a mixed-forest matrix landscape with the management of early successional habitats and the protection of wetlands. The habitat-type objectives in the plan identify focal species whose life and growth requirements would guide management activities in each respective habitat. Alternative B addresses the refuge's mandate to consider managing refuge habitat under the Biological Integrity, Diversity and Environmental Health Policy (601 FW 3). Also in this alternative, we would designate 754 acres of the refuge's central wetland complex as a Research Natural Area.

The hunt program would remain the same as alternative A, except we would facilitate the removal of more deer from the refuge by providing more access into the interior of the refuge and by opening more land to rifle hunting. We would officially open the refuge to fishing by amending 50 CFR 32.68 and would promote fishing opportunities. For increased wildlife observation and photography, the refuge would create more trail connections. We would also expand visitor center hours, build a new environmental education pavilion, and increase the number of environmental education and interpretation programs. We expect a 15 percent increase in visitation under this alternative. To fully implement alternative B, we would add 3.5 positions to the Canaan Valley NWR staff, for a total of 12.5 positions.

Alternative C (Emphasis on Expanding Priority Public Uses)

In alternative C, we would increase access and infrastructure to support more priority public uses than any of the other alternatives. We would create a cross-valley trail that would run east-west through the northern part of the valley, and we would allow limited off-trail use in a designated area. With these improvements in the public use programs, we expect refuge visitation to increase by 20 percent. With an increase in public access and infrastructure

development, we anticipate a greater need for monitoring and control of invasive plants. We would also encourage additional research that would assess whether increased public use affects wildlife behavior, including nesting, feeding, and resting. We therefore propose in this alternative to have a staff of 13.5, compared to a staff of 12.5 in alternative B.

Within the biological objectives, differences are more subtle and emphasize early successional habitat management over forest stand improvement. Although the Biological Integrity and Diversity Policy would still guide some management of the forested and unique wetland plant communities, this management would mostly be in the form of protection and conservation rather than restoration. The Research Natural Area in this alternative would be 593 acres, compared with 754 acres in alternative B.

Alternative D (Emphasis on Managing for Historic Habitats)

This alternative strives to establish and maintain the ecological integrity of natural communities within the refuge. Management would range from passive, or "letting nature takes its course," to actively manipulating vegetation to create or hasten the development of mature forest structural conditions shaped by natural disturbances such as infrequent fires, ice storms, and small patch blow-downs. Under this alternative, no particular wildlife species would be a management focus. We would pursue wetland restoration projects where past land uses have altered historical plant communities or have hindered natural hydrological flow. We would also promote research and development of applied management practices to sustain and enhance the natural composition, patterns, and processes within their natural range in the Central Appalachian Forest. As in the other alternatives, we would ensure protection of current or future threatened and endangered species, and we would control the establishment and spread of non-native, invasive species. We would create the same 754-acre Research Natural Area as we would in alternative B.

In alternative D, we would limit new visitor services infrastructure to already-disturbed areas, such as around the refuge headquarters and visitor center facility, the Freeland tract, and roadside pullouts along A-frame Road. We would enhance hunting and fishing opportunities in ways similar to alternatives B and C. Under this alternative, we would expect a 10 percent increase in visitor use, which is the same as alternative A. To fully implement this alternative, we would add 2.5 positions to the Canaan Valley staff for a total of 11.5 positions. One of these would be a law enforcement officer to help enforce stricter limitations on visitor use.

Public Meetings

We will give the public opportunities to provide input at public comment meetings. You can obtain the schedule from the project leader or natural resource planner (*see* **ADDRESSES** or **FOR FURTHER INFORMATION CONTACT,** above). You may also submit comments at any time during the planning process, by any means shown in the **ADDRESSES** section.

Public Availability of Comments

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

Dated: April 26, 2010.

James G. Geiger,

Acting Regional Director, U.S. Fish and Wildlife Service, Hadley, MA.

[FR Doc. 2010–12998 Filed 5–28–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2010–N100; 20124–1113–0000–F5]

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications; request for public comment.

SUMMARY: The following applicants have applied for scientific research permits to conduct certain activities with endangered species under the Endangered Species Act of 1973, as amended (Act). The Act requires that we invite public comment on these permit applications.

DATES: To ensure consideration, written comments must be received on or before July 1, 2010.

ADDRESSES: Written comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 6034, Albuquerque, NM 87103. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Documents will be available for public inspection, by appointment only, during normal business hours at the U.S. Fish and Wildlife Service, 500 Gold Ave., SW., Room 6034, Albuquerque, NM. Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Susan Jacobsen, Chief, Endangered Species Division, P.O. Box 1306, Albuquerque, NM 87103; (505) 248–6920.

SUPPLEMENTARY INFORMATION:

Public Availability of Comments

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

Permit TE–02368A

Applicant: Andrea Chavez, Albuquerque, New Mexico.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax taillii extimus*) within New Mexico.

Permit TE–172278

Applicant: John Abbott, Austin, Texas.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys and genetic sampling for American burying beetle (*Nicrophorus americanus*) within Oklahoma.

Permit TE–10794A

Applicant: Robert Steidl, Tucson, Arizona.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for lesser long-nosed bat (*Leptonycteris yerbabuenae*) within Arizona.

Permit TE–10808A

Applicant: Sorola Natural Resources Consulting, LLC, Del Rio, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for golden-cheeked warbler (*Dendroica chrysoparia*), black-capped vireo (*Vireo atricapilla*), Tobusch fishhook cactus (*Sclerocactus brevihaatus tobuschii*), and Texas snowbells (*Styrax platanifolius*) within Texas.

Permit TE–021340

Applicant: HDR Engineering, Phoenix, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Texas.

Permit TE–11152A

Applicant: Fort Defiance Branch of Natural Resources, Fort Defiance, Arizona.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona and New Mexico.

Permit TE–212896

Applicant: University of Florida, Gainesville, Florida.

Applicant requests an amendment to a current permit to allow lethal take of a limited number of humpback chub (*Gila cypha*) within Arizona.

Permit TE–001623

Applicant: American Southwest Ichthyological Researchers, LLC, Albuquerque, New Mexico.

Applicant requests an amendment to their current permit to conduct population monitoring, spawning activities, and downstream transport studies for Colorado pikeminnow (*Ptychochelius lucius*) and razorback sucker (*Xyrauchen texanus*) in the San Juan River Basin, New Mexico.

Permit TE–13192A

Applicant: AMEC Earth and Environmental, Inc., Albuquerque, New Mexico.

Applicant requests a new permit for research and recovery purposes to monitor the Alamosa springsnail (*Tryonia alamosae*) in Socorro County, New Mexico.

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

Dated: May 21, 2010.

Thomas L. Bauer,

Regional Director, Southwest Region, Fish and Wildlife Service.

[FR Doc. 2010–13013 Filed 5–28–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[WY–930–1610–DR]

Notice of Availability of Record of Decision for the Kemmerer Resource Management Plan/Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD)/Approved Resource Management Plan (RMP) for the Kemmerer Field Office planning area located in Lincoln, Sweetwater, and Uinta counties, Wyoming. The Wyoming State Director signed the ROD on May 24, 2010, which constitutes the final decision of the BLM and makes the Approved RMP effective immediately.

ADDRESSES: Copies of the ROD/Approved RMP are available upon request from the Field Manager, Kemmerer Field Office, Bureau of Land Management, 312 Highway 189 North, Kemmerer, Wyoming 83101; from the Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming 82003; or via the Internet at: *http://www.blm.gov/rmp/kemmerer/docs.htm.* Copies of the ROD/Approved RMP are available for public inspection at the addresses listed above.

FOR FURTHER INFORMATION CONTACT: For further information, contact John Christensen, Kemmerer Field Manager, or Michele Easley, Kemmerer Assistant Field Manager and RMP team leader, at the Kemmerer Field Office, 312 Highway 189 North, Kemmerer, Wyoming 83101; telephone at (307) 828–4500; or e-mail *John_Christensen@blm.gov* and *Michelle_Easley@blm.gov,* respectively.

SUPPLEMENTARY INFORMATION: The approved Kemmerer RMP was revised collaboratively with the State of Wyoming, county governments, other Federal agencies, and tribal governments. The Kemmerer RMP planning area includes approximately 1.4 million acres of BLM-administered public lands and 1.6 million acres of Federal mineral lands under Federal, state, and private surface ownership.

The Approved RMP establishes the goals, objectives, and management actions to meet desired resource conditions; identifies comprehensive management direction for all resources and uses; identifies lands that are open or available for certain uses along with associated surface restrictions; and identifies lands closed to certain uses. The Approved RMP makes broad-scale decisions to guide future site-specific project implementation for wind energy, fluid minerals, and coal resource development in the Kemmerer planning area. The agency preferred alternative (Alternative D, in the Proposed RMP/Final Environmental Impact Statement (EIS), with modifications) is the selected alternative for the Approved RMP.

After the publication of the Proposed RMP/Final EIS on August 22, 2008, the BLM received 10 protest letters. As a result of these protests, the BLM made modifications to the proposed plan that are reflected in the Approved RMP. The BLM eliminated Christy Canyon as a forage reserve allotment since a lack of available water and a short growing season preclude full-season emergency relief for livestock operations. The BLM also made other minor editorial modifications in preparing the Approved RMP. These modifications provided further clarification of some of the decisions.

In addition, the BLM received protests asserting that the public was not provided adequate opportunity to comment on expanded sage-grouse restrictions in the Proposed RMP/Final EIS. To resolve the issues raised in these protests, the Approved RMP adopts the sage-grouse restrictions originally presented in the Draft RMP/EIS (and reflected in the no action alternative in the Proposed RMP/Final EIS). The BLM Wyoming State Office, however, is also initiating the process to amend the Kemmerer, Casper, Pinedale, Rock Springs, Newcastle, and Rawlins RMPs. These RMP amendments will revise sage-grouse and sagebrush management direction to incorporate policies set forth in BLM Wyoming Instruction Memoranda (IM) WY–2010–012 and WY–2010–013. The IMs may be accessed at the following Web address: *http://www.blm.gov/wy/st/en/programs.wildlife.html.*

To ensure appropriate management of sage-grouse habitat during the amendment process (and associated NEPA analysis), the BLM will undertake the following actions:

1. The BLM will apply the direction provided in IM WY–2010–012 and IM WY–2010–013 to specific projects, as appropriate, on a case-by-case basis.

2. As the BLM considers implementing decisions governed by the Approved Kemmerer RMP, the BLM will coordinate with Federal, state, and local agencies to ensure that the policies established by the Governor of Wyoming's Executive Order on Sage-Grouse (E.O. 2008–2), including managing sage-grouse habitats in support of population objectives consistent with the Governor's Sage-Grouse Core Population Area strategy, are considered and implemented, as appropriate.

3. The BLM will apply expanded sage-grouse restrictions when supported by site-specific environmental analysis.

4. The BLM will make use of statewide sage-grouse seasonal habitat models and sagebrush mapping as they are developed.

5. The BLM will provide for additional sage-grouse protections through a statewide oil and gas lease stipulation—Lease Notice No.3: "Greater Sage-Grouse Habitat: The lease may in part, or in total, contain important Greater sage-grouse habitats as identified by the BLM, either currently or prospectively. The operator may be required to implement specific measures to reduce impacts of oil and gas operations on the Greater sage-grouse populations and habitat quality. Such measures shall be developed during the Application for Permit to Drill (APD) on-site and environmental review process and will be consistent with the lease rights granted."

The Governor's consistency review of the Proposed RMP/Final EIS identified a concern which prompted the BLM to clarify the definition of surface-disturbing activity to maintain consistency with other BLM Wyoming Field Offices.

The decisions identifying designated routes of travel and closures for motorized vehicles are implementation decisions and are appealable under 43 CFR part 4. These decisions are contained in Table 1–1 of the Approved RMP. Any party adversely affected by the proposed route identifications may appeal within 30 days of publication of this Notice of Availability pursuant to 43 CFR, part 4, subpart E. The appeal should state the specific route(s), as identified in Table 1–1 of the Approved RMP, on which the decision is being appealed. The appeal must be filed with the Kemmerer Field Manager at the above listed address. Please consult the appropriate regulations (43 CFR, part 4, subpart E) for further appeal requirements.

Donald A. Simpson

State Director.

[FR Doc. 2010–12969 Filed 5–28–10; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: University of Idaho, Alfred W. Bowers Laboratory of Anthropology, Moscow, ID

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the University of Idaho, Alfred W. Bowers Laboratory of Anthropology, Moscow, ID, that meet the definitions of "unassociated funerary objects" and "sacred object" under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

In 1963, five unassociated funerary objects were removed from the Whitebird Site, 10–IH–84. The five unassociated funerary objects are one square wood stick, one brass or copper button, one dentalium vulgare shell, one-end rounded cork, and one bone whistle. This site is located within the area ceded by the Nez Perce to the United States pursuant to the Nez Perce Treaty of June 9, 1863 (14 Stat. 647). The site is within the area recognized by a final judgment of the Indian Claims Commission as the aboriginal land of the Nez Perce Tribe, Idaho (18 Ind. Cl. Comm. 1, 1967). Finally, the site is a known Nez Perce burial site.

Currently, the Whitebird Site is federally-owned and administered by the National Park Service; however, at the time of excavation, Harry Hagen owned this property. The objects were removed during the survey and subsequent construction of an alternate road (Route (F–41/3(13)). Although the site did not yield human remains at the time of the excavation, it was noted that the site had been "almost completely potted by amateurs," (Idaho Archaeological Site Survey, recorded by Perry Silver, Idaho State Archaeological Society).

In addition to being a funerary object, the bone whistle has been described as possibly sacred. Bone whistles are used in special ceremonies, and may have been buried with the person who owned it. Based on consultation evidence with the Nez Perce Tribe, the bone whistle has been determined to be a sacred object.

Officials from the University of Idaho Alfred W. Bowers Laboratory of Anthropology have determined that, pursuant to 25 U.S.C. 3001(3)(B), the five cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of a death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a burial site of Native American individuals. Officials of the University of Idaho, Alfred W. Bowers Laboratory of Anthropology also have determined that, pursuant to 25 U.S.C. 3001(3)(C), the one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Lastly, officials of the University of Idaho, Alfred W. Bowers Laboratory of Anthropology have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred object and unassociated funerary objects and the Nez Perce Tribe, Idaho.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects and/or sacred object should contact Leah K. Evans-Janke, University of Idaho, Alfred W. Bowers Laboratory of Anthropology, Moscow, ID 83844–1111, telephone (208) 885–3733, before July 1, 2010. Repatriation of the unassociated funerary objects and sacred object to the Nez Perce Tribe, Idaho, may proceed after that date if no additional claimants come forward.

The University of Idaho, Alfred W. Bowers Laboratory of Anthropology is responsible for notifying the Nez Perce Tribe, Idaho, that this notice has been published.

Dated: May 5, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–13062 Filed 5–28–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Grand Canyon National Park, Grand Canyon, AZ

AGENCY: National Park Service, Interior.
ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the U.S. Department of the Interior, National Park Service, Grand Canyon National Park, Grand Canyon, AZ. The human remains were removed from within the boundary of Grand Canyon National Park, Coconino and Mohave Counties, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the superintendent, Grand Canyon National Park.

A detailed assessment of the human remains was made by Grand Canyon National Park professional staff in consultation with representatives of the Havasupai Tribe of the Havasupai Reservation, Arizona; Hopi Tribe of Arizona; Hualapai Indian Tribe of the Hualapai Reservation, Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Navajo Nation, Arizona, New Mexico & Utah; Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes) (formerly Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)); San Juan Southern Paiute Tribe of Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

In 1935, human remains representing a minimum of two individuals were removed from the Grand Canyon Village area in Coconino County, AZ. No known individuals were identified. No associated funerary objects are present.

Between 1954 and 1955, human remains representing a minimum of two individuals were removed from an unknown cave location in Coconino County, AZ. No known individuals were identified. No associated funerary objects are present.

Prior to 1958, human remains representing a minimum of one individual were removed from an unspecified location in Coconino or Mohave County, AZ. No known individual was identified. No associated funerary objects are present.

In 1962, human remains representing a minimum of one individual were removed from a ledge south of Bright Angel Trail in Coconino County, AZ. No known individual was identified. No associated funerary objects are present.

Prior to 1968, human remains representing a minimum of one individual were removed from an unspecified location in Coconino or Mohave County, AZ. No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing a minimum of two individuals were removed from an unspecified location in Coconino or Mohave County, AZ. No known individuals were identified. No associated funerary objects are present.

Due to a lack of contextual information and evidence to support a precise cultural affiliation determination, the Native American human remains described above are determined to be "culturally unidentifiable" under NAGPRA.

Officials of Grand Canyon National Park have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of nine individuals of Native American ancestry. Lastly, officials of Grand Canyon National Park have determined that, pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot reasonably be traced between the Native American human remains and any present-day Indian tribe.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for disposition of culturally unidentifiable human remains. In July 2009, Grand Canyon National Park requested that the Review Committee recommend disposition of the nine culturally unidentifiable human remains to the Havasupai Tribe of the Havasupai Reservation, Arizona, because the human remains were found within the tribe's aboriginal and historical territory. The Review Committee considered the proposal at its October 30–31, 2009, meeting and recommended disposition of the human remains to the Havasupai Tribe of the Havasupai Reservation, Arizona.

A March 4, 2010, letter from the Designated Federal Officer, writing on behalf of the Secretary of the Interior, transmitted the authorization for the park to effect disposition of the physical remains of the culturally unidentifiable individuals to the Havasupai Tribe of the Havasupai Reservation, Arizona, contingent on the publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Stephen P. Martin, Superintendent, Grand Canyon National Park, P.O. Box 129, Grand Canyon, AZ 86023, telephone (928) 638–7945, before July 1, 2010. Disposition of the human remains to the Havasupai Tribe of the Havasupai Reservation, Arizona, may proceed after that date if no additional claimants come forward.

Grand Canyon National Park is responsible for notifying the Havasupai Tribe of the Havasupai Reservation, Arizona; Hopi Tribe of Arizona; Hualapai Indian Tribe of the Hualapai Reservation, Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Navajo Nation, Arizona, New Mexico & Utah; Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes); San Juan Southern Paiute Tribe of Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: May 5, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–13057 Filed 5–28–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R9-IA-2010-N110]
[96300-1671-0000-P5]

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) prohibit activities with listed species unless a Federal permit is issued that allows such activities. Both laws require that we invite public comment before issuing these permits.

DATES: We must receive requests for documents or comments on or before July 1, 2010. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by July 1, 2010.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358-2280; or e-mail *DMAFR@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358-2104 (telephone); (703) 358-2280 (fax); *DMAFR@fws.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How Do I Request Copies of Applications or Comment on Submitted Applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an e-mail or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see DATES) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I Review Comments Submitted by Others?

Comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, the Endangered Species Act of 1973, section 10(a)(1)(A), as amended (16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR 17, the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR 18 require that we invite public comment before final action on these permit applications. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: Museum of Zoology—University of Michigan, Ann Arbor, MI; PRT-10640A

The applicant requests a permit to import dried skin samples from museum specimens of mantled howler monkey (*Alouatta palliata*) and Yellow-tail woolly monkey (*Oreonax flavicauda)* from Peru for the purpose of enhancement of the species through scientific research. This notification covers activities conducted by the applicant for a 5–year period.

Applicant: Charles T. Ellis, Senoia, GA; PRT-10973A

The applicant requests a permit to import a sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

B. Endangered Marine Mammals and Marine Mammals

Applicant: National Marine Mammal Laboratory, Seattle, WA; PRT-212570

The applicant requests an amendment to the permit for incidental harassment for the purpose of scientific research. During cetacean and pinniped aerial and boat surveys, biopsy collection, and tagging activities, populations of polar bear (*Ursus maritimus*), walrus (*Odobenus rosmarus*), northern sea otters (*Enhydra lutris kenyoni*) and southern sea otters (*Enhydra lutris nereis*) may be harassed in the waters of Alaska, Washington, Oregon and California. This notification covers activities to be conducted under the remainder of the 5–year period of the permit.

Applicant: Natural History Museum of Los Angeles County, Los Angeles, CA; PRT-717015

The applicant requests renewal of the permit to acquire, import, and export unlimited number of specimens of sea otters (*Enhydra lutris*), marine otters (*Lontra feline*), manatees (*Trichechus spp.*), dugongs (*Dugong dugon*), polar bears (Ursus maritimus) and walrus (*Odobenus rosmarus*) for the purpose of archiving, scientific exchange, and scientific research. This notification covers activities to be conducted by the applicant over a 5–year period.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Dated: May 21, 2010

Brenda Tapia

Program Analyst, Branch of Permits, Division of Management Authority

[FR Doc. 2010–13007 Filed 5–28–10; 8:45 am]

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR

Minerals Management Service

[Docket No. MMS–2008–MRM–0036]

Notice Terminating the Exclusion of Indian Tribal Leases in the Uintah and Ouray Reservation From Valuation Under 30 CFR 206.172

AGENCY: Minerals Management Service, Interior.

ACTION: Notice.

SUMMARY: For gas produced from Indian tribal leases on the Uintah and Ouray Reservation (Reservation) in Utah, the Minerals Management Service (MMS) is terminating the exclusion from valuation under the regulations at 30 CFR 206.172, based on a request by the Ute Indian Tribe of the Uintah and Ouray Reservation.

DATES: *Effective Date:* First day of the second month following publication.

FOR FURTHER INFORMATION CONTACT: John Barder, Manager, Team B, Western Audit and Compliance, Minerals Revenue Management, Minerals Management Service, P.O. Box 25165, MS 62220B, Denver, Colorado 80225–0165, telephone number (303) 231–3702, fax number (303) 231–3755, e-mail *john.barder@mms.gov.*

SUPPLEMENTARY INFORMATION: On August 10, 1999, MMS published a final rule titled "Amendments to Gas Valuation Regulations for Indian Leases" at 64 FR 43506, with an effective date of January 1, 2000. Per 30 CFR 206.172, MMS excluded Indian leases on the Reservation from index-based valuation because of the results of a cost benefit analysis MMS performed in 1999. Effective January 2000, MMS has valued gas production from the Reservation under the non-index valuation methodology at 30 CFR 206.174. In the 1999 analysis, MMS estimated that the Ute Indian Tribe would receive more revenue under the non-index-based valuation methodology than under the index-based valuation methodology. Thus, MMS excluded the Ute Indian tribal leases from index-based valuation, effective January 1, 2000. Since the implementation of the final rule (64 FR 43506), MMS has analyzed whether the Ute Indian Tribe would continue to receive more revenue under the non-index-based valuation method than the index-based valuation method.

The MMS recently performed a cost benefit analysis and estimated that revenues using the index-based formula at 30 CFR 206.172 exceed the estimated revenues using the non-index valuation method at 30 CFR 206.174.

As required under 30 CFR 206.172(f)(2), MMS received a tribal resolution from the Business Committee of the Ute Indian Tribe to terminate the exclusion from index-based valuation of gas production from Indian tribal leases on the Reservation. As a result of the tribal resolution and publishing of this notice, gas production from Ute Indian tribal leases on the Reservation must be valued under the index-based valuation method at 30 CFR 206.172 beginning with production on the first day of the second month following the date MMS publishes this notice in the **Federal Register**.

Lessees must value gas production from Ute Indian tribal leases on the Reservation with the index-based valuation formula in 30 CFR 206.172(d) using the MMS-approved publications and indexes for the Central Rocky Mountain Index Zone to determine the index zone price; or lessees may obtain the index-based values from the MMS Web site at *http://www.mrm.mms.gov/TribServ/allzones.htm.*

The approved publications and index pricing points for the Central Rocky Mountain Index Zone are listed in the following table:

Index zone	MMS-approved publications		Index-pricing points
	Platt's inside FERC gas market report	NGI's bidweek survey	
Central	X		Kern River Gas Transmission Co. for Wyoming.
Rocky	X		Northwest Pipeline Corp. for Rocky Mountains.
Mountain	X		Questar Pipeline Co. for Rocky Mountains.
	X		Colorado Interstate Gas Co. for Rocky Mountains.
		X	Rocky Mountains.
			CIG.
			Questar.
			Kern River.
			Northwest Domestic.

Dated: April 5, 2010.

Gregory J. Gould,

Associate Director for Minerals Revenue Management.

[FR Doc. 2010–13018 Filed 5–28–10; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–695]

In the Matter of Certain Silicon Microphone Packages and Products Containing the Same; Notice of Commission Determination To Review in Part an Initial Determination Denying Temporary Relief and on Review To Take No Position on Likelihood of Success on the Merits

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the initial determination ("ID") issued by the presiding administrative law judge ("ALJ") on March 24, 2010, denying complainant's motion for temporary relief. On review, the Commission has determined to take no position on the likelihood of success on the merits. The Commission has determined not to review the remainder of the ID, namely the ID's denial of temporary relief, and its analyses of irreparable harm, the balance of hardships and the public interest.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Esq., Office of

the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission voted to institute this investigation on December 16, 2009, based on a complaint filed by Knowles Electronics LLC of Itasca, Illinois ("Knowles"). 74 FR 68077 (Dec. 22, 2009). The complaint named as the sole respondent Analog Devices Inc. of Norwood, Massachusetts ("Analog"). The accused products are microphone packages. Knowles' complaint asserts one claim of U.S. Patent No. 6,781,231, and numerous claims of U.S. Patent No. 7,242,089.

Knowles also filed with its complaint a motion for temporary relief that requested that the Commission issue a temporary limited exclusion order and temporary cease and desist order. The ID at issue is the ALJ's denial of Knowles' motion. In that ID, the ALJ analyzed the four factors for preliminary relief: likelihood of success on the merits, irreparable harm, balance of hardships, and public interest.

On the likelihood of success on the merits, the ALJ found that all but one of the asserted patent claims were likely anticipated by U.S. Patent No. 6,324,907 to Halteren. Some of these same claims were also likely anticipated by U.S. Patent No. 6,594,369 to Une. The remaining claim, while not invalid, was not likely infringed. There was no patent claim for which Knowles demonstrated a likelihood of success on the merits (*i.e.,* as to both validity and infringement).

The ID also found that Knowles had not demonstrated irreparable harm. In particular, the ID found that Analog's sales of accused microphone packages had not caused Knowles lost sales, had not damaged Knowles' relationships with its customers, and otherwise had no proven detrimental effect on Knowles. The ALJ found that these two factors (likelihood of success and irreparable harm) precluded temporary relief here. Nonetheless, the ALJ considered the remaining two factors (balance of hardships and the public interest). As to these remaining two factors, the ID found that the balance of hardships favored Knowles, and the ID also found that the public interest would not preclude preliminary relief.

On review to the Commission, the parties filed opening and reply comments, as authorized by 19 CFR 210.66(c) & (e)(1). These comments do not take issue with the ALJ's findings regarding the balance of hardships or the public interest. Instead, the comments principally deal with Knowles' likelihood of success on the merits, challenging various aspects of the ALJ's analyses of validity and infringement. The private parties also dispute whether the Commission should address at all the likelihood of success, as Knowles now concedes to the Commission that it has not suffered irreparable harm. Thus, Knowles believes that the question of likelihood of success is moot and urges the Commission not to reach likelihood of success. Analog has taken the position that Knowles' concession is inappropriate and that the Commission should decide likelihood of success.

Having examined the record of this investigation, including the ALJ's ID and the subsequent comments and reply comments, the Commission finds that even absent Knowles' concession, irreparable harm has not been demonstrated. It was Knowles' burden to demonstrate that such harm was likely absent temporary relief, and it failed to meet that burden. *Winter* v. *Natural Res. Defense Council, Inc.,* 129 S. Ct. 365, 375 (2008). The Commission notes, in addition to the reasons discussed in the ID, that Knowles did not seek temporary relief to exclude the only product it has identified that allegedly contains the accused microphone package. See Complaint of Knowles Elecs. LLC Under Section 337 of the Tariff Act of 1930, As Amended ¶¶ 6, 18, 48–49 (Nov. 12, 2009). The Commission has therefore determined not to review the ID's finding of lack of irreparable harm and the ID's denial of temporary relief. The parties have not sought the Commission's review as to the balance of hardships and public interest analyses, and the Commission has determined not to review the ID's findings on those issues.

Because irreparable harm is dispositive here, the Commission need not evaluate the likelihood of success on the merits, and therefore, the Commission has determined to review the ID's finding on likelihood of success and to take no position on it. *See Beloit Corp.* v. *Valmet Oy,* 742 F.2d 1421 (Fed. Cir. 1984). The Commission's decision enables the ALJ to assess the merits unburdened by Commission impressions that may have been formed on a limited temporary-relief record.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.52 and 210.66 of the Commission's Rules of Practice and Procedure (19 CFR 210.52, 210.66).

By order of the Commission.

Issued: May 21, 2010.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2010–12742 Filed 5–28–10; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1084–1087 (Review)]

Carboxymethylcellulose from Finland, Mexico, Netherlands, and Sweden

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on carboxymethylcellulose from Finland, Mexico, Netherlands, and Sweden.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on carboxymethylcellulose from Finland, Mexico, Netherlands, and Sweden would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is July 1, 2010. Comments on

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 10–5–217, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

the adequacy of responses may be filed with the Commission by August 16, 2010. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* June 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On July 11, 2005, the Department of Commerce issued antidumping duty orders on imports of purified carboxymethylcellulose from Finland, Mexico, Netherlands, and Sweden (70 FR 39734). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Finland, Mexico, Netherlands, and Sweden.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission found one *Domestic Like Product* consisting of all forms of purified carboxymethylcellulose, as that term was defined by Commerce in the scope of the original investigations.[2]

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. Based on its finding that the *Domestic Like Product* consisted of all purified carboxymethylcellulose, the Commission found in its original determinations that the *Domestic Industry* consisted of Aqualon, the only domestic producer of purified carboxymethylcellulose at that time.

(5) The *Order Date* is the date that the antidumping duty orders under review became effective. In these reviews, the *Order Date* is July 11, 2005.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register.** The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b)(19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register.** Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 1, 2010. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should

[2] Commerce excluded three forms of carboxymethylcellulose from the scope of the original investigations: unpurified or crude carboxymethylcellulose (often called "technical carboxymethylcellulose"), carboxymethylcellulose in fluidized polymer suspension, and carboxymethylcellulose that is cross-linked through heat treatment.

conduct an expedited or full review. The deadline for filing such comments is August 16, 2010. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided In Response To This Notice Of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2009, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) The value of (i) Net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject*

Country(ies), provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in each *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: May 24, 2010.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2010–12760 Filed 5–28–10; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–376 and 379 and 731–TA–788, 790–793 (Second Review)]

Stainless Steel Plate From Belgium, Italy, Korea, South Africa, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty orders on stainless steel plate from Belgium and South Africa and the antidumping duty orders on stainless steel plate from Belgium, Italy, Korea, South Africa, and Taiwan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty orders on stainless steel plate from Belgium and South Africa and the antidumping duty orders on stainless steel plate from Belgium, Italy, Korea, South Africa, and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is July 1, 2010. Comments on the adequacy of responses may be filed with the Commission by August 16, 2010. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* June 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—May 11, 1999, the Department of Commerce ("Commerce") issued countervailing duty orders on imports of certain stainless steel plate from Belgium, Italy, and South Africa (64 FR 25288). On May 21, 1999, Commerce issued antidumping duty orders on imports of certain stainless steel plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan (64 FR 27756). On March 11, 2003, Commerce amended these antidumping and countervailing duty orders on imports of certain stainless steel plate to remove the original language that excluded cold-rolled stainless steel plate in coils (68 FR 11520 and 68 FR 11524). Following five-year reviews by Commerce and the Commission, effective July 18, 2005, Commerce issued a continuation of the countervailing duty orders on stainless steel plate from Belgium, Italy, and South Africa and the antidumping duty orders on stainless steel plate from Belgium, Italy, Korea, South Africa, and Taiwan (70 FR 41202).[2] The Commission is now conducting second reviews of the countervailing duty orders on stainless steel plate from Belgium and South Africa [3] and the antidumping duty orders on stainless

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 10–5–218, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

[2] Following the five-year reviews, Commerce revoked the antidumping duty order on stainless steel plate from Canada effective May 21, 2004 (70 FR 41207, July 18, 2005).

[3] Following a changed circumstances review, Commerce revoked the countervailing duty order on stainless steel plate from Italy, effective September 4, 1998 (71 FR 15380, March 28, 2006).

steel plate from Belgium, Italy, Korea, South Africa, and Taiwan to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Belgium, Italy, Korea, South Africa, and Taiwan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations after remand and its full first five-year review determinations, the Commission defined a single *Domestic Like Product* as certain (hot-rolled and cold-rolled) stainless steel plate in coils, coextensive with Commerce's scope definition. Certain Commissioners defined the *Domestic Like Product* differently in the original determinations.[4]

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations after remand and its full first five-year review determinations, the Commission defined the *Domestic Industry* as all producers of certain stainless steel plate in coils. Certain Commissioners defined the *Domestic Industry* differently in the original determinations.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register.** The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR § 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 1, 2010. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is August 16, 2010. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide

[4] While the Commission majority in the original determinations defined two separate domestic like products (*i.e.,* hot-rolled stainless steel plate in coils and cold-rolled stainless steel plate in coils), on remand the Commission majority's determinations involved a single domestic like product, certain stainless steel plate in coils.

equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term "firm" includes any related firms:

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and e-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2004.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and e-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2009, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(d) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(e) The value of (i) Net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country(ies*), provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise in the Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production; and

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in each *Subject Country* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject*

Merchandise from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country(ies)* after 2004, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country(ies),* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: May 24, 2010.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2010–12759 Filed 5–28–10; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–382 and 731–TA–798–803 (Second Review)]

Stainless Steel Sheet and Strip From Germany, Italy, Japan, Korea, Mexico, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty order on stainless steel sheet and strip from Korea and the antidumping duty orders on stainless steel sheet and strip from Germany, Italy, Japan, Korea, Mexico, and Taiwan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on stainless steel sheet and strip from Korea and the antidumping duty orders on stainless steel sheet and strip from Germany, Italy, Japan, Korea, Mexico, and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is July 1, 2010. Comments on the adequacy of responses may be filed with the Commission by August 16, 2010. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* June 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On July 27, 1999, the Department of Commerce ("Commerce") issued antidumping duty orders on imports of stainless steel sheet and strip in coils from France, Germany, Italy, Japan, Korea, Mexico, Taiwan, and the United Kingdom (64 FR 40555–40570). On August 6, 1999, Commerce issued countervailing duty orders on imports of stainless steel sheet and strip in coils from France, Italy, and Korea (64 FR 42923–42925). Following five-year reviews by Commerce and the Commission, effective July 25, 2005, Commerce issued a continuation of the countervailing duty orders on stainless steel sheet and strip in coils from Italy and Korea and the antidumping duty orders on stainless steel sheet and strip in coils from Germany, Italy, Japan, Korea, Mexico, and Taiwan (70 FR 44886, August 4, 2005).[2] The Commission is now conducting second five-year reviews to determine whether revocation of the countervailing duty order on stainless steel sheet and strip in coils from Korea and the antidumping duty orders on stainless steel sheet and strip in coils from Germany, Italy, Japan, Korea, Mexico, and Taiwan would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full review or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Germany, Italy, Japan, Korea, Mexico, and Taiwan.

(3) The *Domestic Like Product i*s the domestically produced product or

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 10–5–219, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

[2] Subsequent to the issuance of the first five-year review institution notices, Commerce discovered that it had previously revoked the countervailing duty order for France on November 7, 2003, in its notice of implementation under Section 129 of the Uruguay Round Agreements Act. Consequently, Commerce (69 FR 35585, June 25, 2004) and the Commission (69 FR 35678, June 25, 2004) both rescinded the first five-year review of the countervailing duty order on stainless steel sheet and strip from France. Following the Commission's and Commerce's five-year reviews of the remaining orders, Commerce revoked the antidumping duty orders on stainless steel sheet and strip from France and the United Kingdom effective July 27, 2004 (70 FR 44894, August 4, 2005). Following a changed circumstances review, Commerce revoked the countervailing duty order on stainless steel sheet and strip in coils from Italy, effective November 17, 1998 (71 FR 15382, March 28, 2006).

products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original and full first five-year review determinations, the Commission found the *Domestic Like Product* to be stainless steel sheet and strip in coils corresponding to the scope of the subject merchandise.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original and full first five-year review determinations, the Commission defined the *Domestic Industry* as all producers of stainless steel sheet and strip in coils. The Commission also determined that rerollers were members of the *Domestic Industry* producing stainless steel sheet and strip in coils during the original investigations because of their substantial production-related activity. In its determinations in the full first five-year reviews, the Commission indicated that no party objected to its decision to include rerollers in the *Domestic Industry.*

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list. Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b)(19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register.** Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 1, 2010. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is August 16, 2010. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the

Subject Merchandise, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2004.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2009, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(e) the value of (i) Net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of *the Subject Merchandise* from the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production; and

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in each *Subject Country* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2004, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: May 24, 2010.

By order of the Commission.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2010–12763 Filed 5–28–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Recreational Off-Highway Vehicle Association (Formerly Known as Recreational Off-Highway Vehicle Organization)

Notice is hereby given that, on May 4, 2010, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Recreational Off-Highway Vehicle Association ("ROHVA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, since the last notification was filed, ROHVA has initiated maintenance to and revision of a voluntary standard (ANSI/ROVA 1–2010) addressing the design, configuration, and performance aspects of Recreational Off-Highway Vehicles (ROVs).

Also, the name of the standards development organization has changed from the Recreational Off-Highway Vehicle Organization ("ROVO") to the Recreational Off-Highway Vehicle Association ("ROHVA").

In addition, ROHVA is including its members, Arctic Cat, Inc., Thief River Falls, HN; BRP, Inc., Valcourt, Quebec, CANADA; Polaris Industries Inc., Medina, MN; and Yamaha Motor Corporation, U.S.A., Cypress, CA, in this notice.

On June 23, 2008, ROHVA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 29, 2008 (73 FR 43952).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 2010–12815 Filed 5–28–10; 8:45 am]

BILLING CODE 4410–41–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ASTM International

Notice is hereby given that, on May 6, 2010, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), ASTM International ("ASTM") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ASTM has provided an updated list of current, ongoing ASTM standards activities originating between February 2010 and May 2010 designated as Work Items. A complete listing of ASTM Work Items, along with a brief description of each, is available at *http://www.astm.org.*

On September 15, 2004, ASTM filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 2004 (69 FR 65226).

The last notification was filed with the Department on Feburary 16, 2010. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2010 (75 FR 11196).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 2010–12817 Filed 5–28–10; 8:45 am]

BILLING CODE 4410–11–M

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 10–03]

Notice of the June 16, 2010 Millennium Challenge Corporation Board of Directors Meeting; Sunshine Act Meeting

AGENCY: Millennium Challenge Corporation.

TIME AND DATE: 10 a.m. to 12 p.m., Wednesday, June 16, 2010.

PLACE: Department of State, 2201 C Street, NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Information on the meeting may be obtained from Melvin Williams, Vice President, General Counsel and Corporate Secretary via e-mail at *Corporatesecretary@mcc.gov* or by telephone at (202) 521–3600.

STATUS: Meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The Board of Directors (the "Board") of the Millennium Challenge Corporation ("MCC") will hold a meeting to discuss an update on the Philippines Compact; the status of compact implementation; update on the compact pipeline; the Threshold Program Review; and certain administrative matters. The agenda items are expected to involve the consideration of classified information and the meeting will be closed to the public.

Dated: May 27, 2010.

Henry C. Pitney,

Acting Vice President, General Counsel and Corporate Secretary, Millennium Challenge Corporation.

[FR Doc. 2010–13248 Filed 5–27–10; 4:15 pm]

BILLING CODE 9211–03–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0192]

Biweekly Notice: Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make

immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from May 6 to May 19, 2010. The last biweekly notice was published on May 18, 2010 (75 FR 27825).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR) 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules, Announcements, and Directives Branch (RADB), TWB–05–B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be faxed to the RADB at 301–492–3446. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have

access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Calvert Cliffs Nuclear Power Plant, LLC, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment requests: April 5, 2010.

Description of amendments request: The amendment would make title changes and corrections within Technical Specification (TS) 5.0, "Administrative Controls." Specifically, the proposed changes would include:

(1) Replacement of the use of plant-specific titles to generic titles consistent with TS Task Force (TSTF) Traveler TSTF–65, Revision 1, "Use of Generic Titles for Utility Positions,"

(2) Changes made to more closely align selected TSs with the Improved Standard TSs, and

(3) Administrative changes to specified TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No.

The first portion of the proposed change, involving adoption of a generic title vice a plant specific personnel title, is administrative in nature. As such, this change does not involve any change to the design basis of the plant or of any structure, system, or component. As a result there is no change to the probability or consequences of any previously evaluated accident.

The second portion of the proposed change involves changes to Technical Specifications that align them to the words used in the Improved Standard Technical Specifications for gaseous effluents to include effluents that are already routinely monitored. In addition, the proposed change in requiring either the operations manager or assistant operations manager to hold a Senior Reactor Operator (SRO) license meets the established standards of American National Standards Institute N18.1–1971 for individuals filling the applicable positions. These changes do not involve any change to the design basis of the plant or of any structure, system, or component. As a result there is no change to the probability or consequences of any previously evaluated accident.

The third portion of the proposed change involves administrative changes that do not involve any change to the design basis of the plant or of any structure, system, or component. As a result there is no change to the probability or consequences of any previously evaluated accident.

Therefore, operation of the facility in accordance with the proposed changes will not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No.

The first portion of the proposed change, involving adoption of a generic title vice a plant specific personnel title is administrative in nature. As such, this change does not result in any physical alterations to the plant configuration, make any change to plant operation, or alter any design function. As a result no new accident failure mechanisms or single failures are introduced.

The second portion of the proposed change involves changes to Technical Specifications that align those Technical Specifications to the words used in the Improved Standard Technical Specifications for gaseous effluent monitoring to include certain effluents that are already routinely monitored. In addition, the proposed change requiring either the operations manager or assistant operations manager to hold an SRO license meets the established standards of American National Standards Institute N18.1–1971 for individuals filling the applicable positions. These changes do not involve any change to the design basis of the plant or of any structure, system, or component. As a result no new accident failure mechanisms or single failures are introduced.

The third portion of the proposed change involves administrative changes that do not involve any change to the design basis of the plant or of any structure, system, or component. As a result no new accident failure mechanisms or single failures are introduced.

Therefore, operation of the facility in accordance with the proposed changes will not involve a significant increase in the probability or consequence of an accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

No.

The first portion of the proposed change, involving adoption of a generic title vice a plant specific personnel title is administrative in nature. As such, this change involves no change to the design bases functions or to the controlling values of parameters used to avoid exceeding regulatory or licensing limits. As a result there is no decrease in any margin of safety due to this proposed change.

The second portion of the proposed change involves changes to Technical Specifications that align those Technical Specifications to the words used in the Improved Standard Technical Specifications for gaseous effluent monitoring to include certain effluents that are already routinely monitored. In addition, the proposed change requiring either the operations manager or assistant operations manager to hold an SRO license meets the established standards of American National Standards Institute N18.1–1971 for individuals filling the applicable positions. As such, these changes involve no change to the design bases functions or to the controlling values of parameters used to avoid exceeding regulatory or licensing limits. As a result there is no decrease in any margin of safety due to these proposed changes.

The third portion of the proposed change involves administrative changes that do not involve any change to the design basis of the plant or of any structure, system, or component. As such, these changes involve no change to the design bases functions or to the controlling values of parameters used to avoid exceeding regulatory or licensing limits. As a result there is no decrease in any margin of safety due to these proposed changes.

Therefore, operation of the facility in accordance with the proposed changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: Carey Fleming, Sr. Counsel—Nuclear Generation, Constellation Generation Group, LLC, 750 East Pratt Street, 17th floor, Baltimore, MD 21202.

NRC Branch Chief: Nancy L. Salgado.

Carolina Power and Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: March 5, 2010.

Description of amendment request: The proposed change would revise H. B. Robinson Steam Electric Plant's Technical Specifications (TS) Section 3.3.2, "Engineered Safety Feature Actuation System (ESFAS) Instrumentation," to allow the performance of maintenance activities for an inoperable containment pressure-high high channel. The proposed change to TS 3.3.6, "Containment Ventilation Isolation Instrumentation," corrects an error related to table references.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed changes to TS 3.3.2 are intended to allow for the performance of maintenance activities required to return an inoperable channel to service with the instrumentation and plant in a condition that reduces the probability of an inadvertent transient or the need for a plant shutdown. Therefore, the proposed change reduces the probability of an accident because the likelihood of accident initiation is decreased.

The emergency safety features that are actuated by the Containment Pressure-High High channels are Main Steam Line Isolation, Containment Spray, and Containment Phase B isolation. These safety features are intended to reduce the consequences of design basis accident scenarios. These safety features are still expected to function as designed. Actuation from containment pressure exceeding the High High trip setpoint will still occur with one trip signal bypassed based on the input from the other five channels. Should an additional failure result in the inability to actuate based on Containment Pressure-High High, there are other means to actuate these safety features in a timely manner. Main Steam Line Isolation based on High High containment pressure is only important for the assumed main steam line break inside containment. For such an accident, main steam line isolation will still automatically occur from either High Steam Flow in Two Steam Lines Coincident with T_{avg}-Low, or High Steam Flow in Two Steam Lines Coincident with Steam Line Pressure-Low. In regard to Containment Spray and Containment Phase B Isolation, the operator can manually initiate these functions if automatic actuation did not occur and containment conditions warranted actuation. Therefore, there will not be a significant increase in the consequences of analyzed accidents.

The proposed change to TS 3.3.6 is an administrative correction and there will be no actual changes to plant design or operation.

Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated.

As described above, the proposed change to TS 3.3.2 would allow a single Containment Pressure-High High channel to not be in the trip condition for maintenance purposes for a limited period of time (up to six hours). This is a condition that is already allowed during the first six hours of the action statement.

Therefore, no new accident initiators or precursors are introduced by the proposed change.

The proposed change to TS 3.3.6 is an administrative correction and there will be no actual changes to plant design or operation.

Therefore, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any previously evaluated.

3. The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety.

As described above, the proposed change to TS 3.3.2 would allow a single Containment Pressure-High High channel to not be in the trip condition for a limited period of time (up to six hours) to allow an effective means of maintenance to return an inoperable channel to service. It is expected that safety systems will continue to function as designed with a single channel not in trip and therefore there will be no impact on the accident analyses or a reduction in the margin of safety.

The proposed change to TS 3.3.6 is an administrative correction and there will be no actual changes to plant design or operation.

Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David T. Conley, Associate General Counsel II—Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Acting Branch Chief: Douglas A. Broaddus.

Duke Energy Carolinas, LLC, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: September 3, 2009.

Description of amendment request: The amendments would revise the Technical Specification (TS) Section 3.7.10, "Control Room Area Ventilation System (CRAVS)," to allow movement of irradiated fuel with only one CRAVS train OPERABLE.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configurations of the facility. The proposed changes do not alter or prevent the ability of structure, systems and components (SSCS) to perform their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. This is a revision to the TS for the control room ventilation system which is a mitigation system designed to minimize unfiltered air inleakage into the control room and to filter the Control Room atmosphere to protect occupants following an accident previously analyzed. The Control Room ventilation system is not an initiator or precursor to any accident previously evaluated. Therefore, the probability or consequences of any accident previously evaluated are not increased.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

This revision will not impact the accident analysis. The change will not alter the requirements of the Control Room ventilation system or its function during accident conditions. No new or different accidents result from the changes proposed. The changes do not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or significant changes in methods governing normal plant operation. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analyses assumptions. Therefore, it is concluded that these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in margin of safety?

The proposed changes do not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operations are determined. The safety analysis acceptance criteria are not affected by these changes. The proposed changes will not result in plant operation in a configuration outside the design basis for an acceptable period of time without compensatory measures. The proposed changes do not adversely affect systems that respond to safely shutdown the plant and to maintain the plant in a safe shutdown condition. It is therefore concluded that the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, EC07H, Charlotte, NC 28202.

NRC Branch Chief: Gloria Kulesa.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of amendment request: March 29, 2010.

Description of amendment request: The proposed change revises the

Technical Specifications (TSs) to delete channel check surveillance requirements in TS 3.3.6.1, "Primary Containment Isolation Instrumentation," for the traversing in-core probe (TIP) isolation instrumentation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises TS 3.3.6.1 by eliminating a channel check SR [surveillance requirement]. The controls and requirements of TS[s] otherwise continue to be enforced. The proposed change does not affect any plant equipment, test methods, or plant operation, and does not affect the initiation of any analyzed accident sequence. The allowance to un-isolate a penetration flow path is preserved and will not have a significant effect on the mitigation of any accident previously evaluated because the penetration flow path can be isolated, if needed, by a dedicated operator. The option to isolate a TIP penetration continues to be preserved and ensures the penetration will perform as assumed in the accident analysis. Operation in accordance with the proposed TS will ensure that all analyzed accidents will continue to be mitigated as previously analyzed.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration to the plant (*i.e.,* no new or different type of equipment will be installed) or a change to the methods governing normal plant operation. The changes do not alter the assumptions made in the safety analysis.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not affect the operation of plant equipment or the function of any equipment assumed in the accident analysis. The allowance to un-isolate a penetration flow path will not have a significant effect on a margin of safety because the penetration flow path can be isolated manually, if needed. The option to isolate a TIP penetration is preserved, and will continue to ensure the penetration will perform as assumed in the accident analysis.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William A. Horin, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: Michael T. Markley.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of amendment request: March 31, 2010.

Description of amendment request: The proposed change revises the Technical Specifications (TSs) to add a channel check surveillance requirement to TS 3.3.6.1, "Primary Containment Isolation Instrumentation," for the reactor pressure vessel low water level isolation signal to the primary containment isolation valves.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Adding a channel check surveillance for the main steam low water level isolation function does not increase the probability or consequences of a previously evaluated accident. The proposed change does not impact the logic or performance of the isolation function. The proposed change increases assurance that the isolation function will be operable by providing increased monitoring.

Therefore the proposed change does not increase probability or consequences for an evaluated accident.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

No modifications are being made under the proposed change that create the possibility of a new or different kind of accident. Overall system reliability is improved due to more frequent monitoring.

Therefore the proposed change does not create the possibility of new or different accidents.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The addition of a channel check surveillance provides increased assurance of operability of the MSIV [main steam isolation valve] low water level isolation function.

Therefore the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William A. Horin, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: Michael T. Markley.

Exelon Generation Company, LLC, Docket No. 50–461, Clinton Power Station, Unit No.1, DeWitt County, Illinois

Date of amendment request: April 2, 2010.

Description of amendment request: The proposed amendment would revise the Exelon Nuclear Radiological Emergency Plan Annex for Clinton Power Station (CPS), Unit No. 1, Table B–1, "Minimum Staffing Requirements for the On-Shift Clinton Station [Emergency Response Organization] ERO," to increase the Non-Licensed Operator (NLO) staffing from two to four, allow in-plant protective actions to be performed by personnel assigned to other functions, and replace a Mechanical Maintenance person with a NLO.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to the CPS Emergency Plan Table B–1, "Minimum Staffing Requirements for the On-Shift Clinton Station ERO," were evaluated against plant operations during design basis accidents, Radiation Protection (RP) personnel tasks associated with design basis accidents, and the CPS radiological accident assessment. The reallocation of functions between ERO responders and the addition of two NLOs does not reduce the minimum number of on-shift staffing, nor does it reduce or impede the tasks that are required to be performed during an emergency event. This change does not reduce the functionality of tasks required to be

performed; therefore, since all personnel will be trained and qualified to perform all assigned tasks, this change does not reduce the effectiveness of the ERO's performance or the CPS Emergency Plan in mitigating the consequences of any accident.

The probability of a reactor accident requiring implementation of the CPS Emergency Plan has no relevance in determining whether the proposed change reduces the effectiveness of the CPS Emergency Plan. The Planning Basis section of NUREG–0654, Revision 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," describes how to address the likelihood of an event during the development of an emergency response plan. According to NUREG–0654, Revision 1:

The overall objective of emergency response plans is to provide dose savings (and in some cases immediate life saving) for a spectrum of accidents that could produce offsite doses in excess of Protective Action Guides (PAGs). No single specific accident sequence should be isolated as the one for which to plan because each accident could have different consequences, both in nature and degree. Further, the range of possible selection for a planning basis is very large, starting with a zero point of requiring no planning at all because significant offsite radiological accident consequences are unlikely to occur, to planning for the worst possible accident, regardless of its extremely low likelihood.

Therefore, while the proposed changes will not impact the probability or consequences of any previously evaluated accident, [Exelon Generation Company, LLC] EGC did not consider the risk insights regarding any specific accident initiation or progression in evaluating the proposed change.

Process improvements made by CPS associated with the activation of the ERO will ensure emergency responders will be available on-site in the allotted timeframe. Additionally, CPS successfully demonstrated the capability to fully staff and activate the ERO facilities in a September 16, 2004, off-hours augmentation drive-in drill. This drill confirmed that the CPS ERO is capable of being staffed, with the proposed staffing, in the allotted amount of time.

The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration, or the manner in which the plant is operated and maintained. The proposed changes do not adversely affect the ability of structures, systems, or components (SSCs) to perform their intended safety functions in mitigating the consequences of an initiating event within the assumed acceptance limits.

The proposed changes do not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated. Further, since the changes are simply a reallocation of responsibilities from one group of trained and qualified individuals to another, the proposed changes do not increase the types and amounts of radioactive effluent that may be released off site, nor significantly increase individual or cumulative occupational or public radiation exposures.

Therefore, the probability of an accident is not impacted, nor is there a significant impact on the consequences of an accident previously evaluated, introduced by the proposed changes.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve the addition or modification of any plant equipment. Moreover, the proposed changes will not alter the design configuration, or method of operation of plant equipment beyond its normal functional capabilities. CPS ERO functions will continue to be performed as required. The proposed modification of ERO assignments does not create any new credible failure mechanisms, malfunctions, or accident initiators.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from those that have been previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not alter or exceed a design basis parameter or safety limit for any system or component. No change to the setpoint or environmental condition of any SSC or the manner in which any SSC is operated is proposed. The proposed changes do not affect any of the assumptions used in any accident analysis, nor do they affect any operability requirement for equipment important to plant safety. The requirements of 10 CFR 50.47, "Emergency plans," paragraph (b) and 10 CFR 50, Appendix E, "Emergency Planning and Preparedness for Production and Utilization Facilities," will continue to be met.

Therefore, the proposed changes do not involve any reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Bradley J. Fewell, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Stephen J. Campbell.

PSEG Nuclear LLC, Docket No. 50–311, Salem Nuclear Generating Station, Unit No. 2, Salem County, New Jersey

Date of amendment request: March 29, 2010.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to allow a one-time replacement of the 2C 125-volt direct current (VDC) battery while Salem Unit 2 is at power.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

During the replacement of the existing 2C 125VDC battery, a temporary, TS operable battery will provide the same function as the battery being removed. The temporary battery has been analyzed to comply with the required design functions of the existing 2C 125VDC battery. The temporary battery will be subjected to all required TS surveillance testing prior to being utilized to confirm operability. The temporary battery will be placed in service during the current TS AOT [allowed outage time]. The respective DC bus will be continuously energized by the existing battery charger. Consequently, the structures, systems, and components (SSCs) of the plant will continue to perform their design function. The proposed change will have no adverse affect on plant operations, or any design function or analysis.

The proposed change does not affect accident initiators or precursors, or design assumptions for the systems or components used to mitigate the consequences of an accident as analyzed in the UFSAR [Updated Final Safety Analysis Report]. The temporary battery will be operable while the permanent 2C 125VDC battery is replaced and the other divisions of DC power will also remain operable to support design mitigation capability.

Therefore, the proposed changes do not represent a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

During the replacement of the existing 2C 125VDC battery, a temporary battery will provide the same function as the 2C 125VDC battery that is being replaced. This temporary battery possesses adequate capacity to fulfill the safety-related requirements of supplying necessary power to the associated 125VDC bus. Because the temporary battery will perform like the station battery that is currently installed, no new electrical or functional failure modes are created. Equipment will be operated in the same manner that is currently allowed and designed for. Consequently, there is no change to the design function or operation of the SSCs involved and no possibility of a new or different kind of accident due to credible new failure mechanisms, malfunctions, or accident initiators not previously considered in the design and licensing bases.

The proposed one-time change does not introduce any new accident initiators or

precursors or any new design assumptions for those systems or components used to mitigate the consequences of an accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

During the replacement of the 2C 125VDC battery, a TS operable 125VDC battery will temporarily perform the same function. The temporary replacement 125VDC battery will be assembled from the same type and manufactured safety-related Class 1E cells. The temporary replacement 125VDC battery will meet all the design requirements as the 2C 125VDC battery that it replaces. It will possess adequate capacity to fulfill the requirements of the associated 125VDC bus. The proposed replacement activity will not prevent the plant from mitigating a Design Basis Accident (DBA) during the time the temporary battery is in service. Required DC power systems supporting the design mitigation capability will be maintained. The associated DC bus will always be supplied by either the temporary battery and/or the battery charger at all times. The proposed change does not alter a design basis or safety limit; therefore it does not significantly reduce the margin of safety. The 2C 125VDC bus will continue to operate per the existing design and regulatory requirements.

Therefore, this proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Vincent Zabielski, PSEG Nuclear LLC—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Branch Chief: Harold K. Chernoff.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: February 24, 2010.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3.7.11 "Control Room Emergency Air Temperature Control System (CREATCS)." The proposed change would only be applicable during plant modifications to upgrade the CREATCS chillers. This "one-time" TS change would be implemented during Watts Bar Nuclear Plant, Unit 1 Cycles 10 and 11 beginning December 1, 2010, and ending January 29, 2012.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Control Room Emergency Air Treatment System (CREATCS) is used to maintain an acceptable environment for control room personnel and equipment during normal and emergency conditions. The proposed "one-time" Technical Specification (TS) to extend the Completion Time for loss of one train from 30 days to 60 days is justified because the additional risk of operating the plant beyond the current Completion Time of 30 days is compensated by the addition of a temporary, non-safety related cooling system with a diesel generator backup.

The CREATCS system does not have the potential to create a design basis accident as it only provides MCRHZ [main control room habitability zone] cooling and do not directly mitigate postulated accidents. Temporary cooling equipment will be designed in accordance with appropriate design controls, sized to ensure adequate cooling capacity, and located such that safety-related features would not be prevented from performing their safety function. Since the MCR chillers do not contribute to the initiators of postulated accidents, the probability of an accident is not significantly increased by the proposed change.

The MCR HVAC [heating, ventilation, and air conditioning] Systems do ensure a suitable environment for safety-related equipment and personnel during an accident. The temperature limits placed on the temporary cooling system ensure that the control room areas will remain at acceptable levels to support plant evolutions in response to postulated accidents. Safety functions that are necessary to maintain acceptable offsite dose limits will not be degraded by the proposed change. Alternate cooling methods that will maintain the control room areas well within the equipment temperature limits will ensure these safety functions. With the control room cooling requirements satisfied, the offsite dose limits are not affected.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed "one-time" Completion Time extension will continue to ensure that the control room ambient temperatures will not exceed 90°F. The temperature control functions for the control room are not postulated to create an accident and since the proposed change continues to maintain acceptable temperatures, no new accident initiators are created.

Implementation of temporary cooling methods will be designed such that safety-related features will not be prevented from performing their safety functions and will be in compliance with 10 CFR 50.59 requirements. Plant operation during the use of such alternate cooling methods will continue to comply with applicable Technical Specification (TS) requirements. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed "one-time" Completion Time extension will continue to maintain control room temperatures at acceptable levels to ensure the availability of equipment necessary for safety functions. Sufficient margin to temperature limits will be maintained to ensure response to accident conditions can be managed adequately and temperatures will remain at acceptable levels to complete necessary accident mitigation actions. Plant components and their setpoints will not be altered by the proposed change that would impact the ability to respond to accident conditions. The installation of temporary cooling devices will be designed such that safety-related features would not be prevented from performing their safety function. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Branch Chief: L. Raghavan.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in

connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr.resource@nrc.gov*.

Carolina Power and Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: December 16, 2009, as supplemented by letters dated March 11, 2010, and April 22, 2010.

Brief description of amendment: The amendment revises Technical Specification (TS) 5.5.9, "Steam Generator (SG) Program," to allow inspection of the steam generator tubes to start within the tubesheet region (a minimum of 17.28 inches below the top of the tubesheet). The amendment also adds requirements in TS 5.6.8, "Steam Generator Tube Inspection Report," to report indications in this region and primary to secondary leakage that could be attributed to the uninspected portion of the tube within the tubesheet. These changes are only applicable until the end of Operating Cycle 27.

The supplements dated March 11, 2010, and April 22, 2010, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register** on February 10, 2010 (75 FR 6731).

Date of issuance: May 7, 2010.

Effective date: Effective as of the date of issuance and shall be implemented by the end of Refueling Outage 26.

Amendment No.: 224.

Renewed Facility Operating License No. DPR–23: The amendment revises the technical specifications.

Date of initial notice in ***Federal Register****:* February 10, 2010 (75 FR 6731).

The Commission's related evaluation of the amendment is contained in a safety evaluation dated May 7, 2010.

Public comments received as to proposed no significant hazards consideration (NSHC): No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: May 29, 2009.

Brief description of amendment: The amendment modified the Technical Specifications (TSs) as follows: (1) Revised the definition for Operable-Operability; (2) modified the provisions under which equipment may be considered operable when either its normal or emergency power source is inoperable; (3) deleted TS limiting condition for operation (LCO) 2.0.1(2); (4) deleted diesel generator Surveillance Requirement 3.7.1(e); and (5) relocated the guidance for inoperable power supplies and verifying the operability of redundant components into the LCO for electrical equipment 2.7, "Electrical Systems."

Date of issuance: May 14, 2010.

Effective date: As of the date of issuance and shall be implemented within 120 days from the date of issuance.

Amendment No.: 264.

Renewed Facility Operating License No. DPR–40: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register****:* October 6, 2009 (74 FR 51331).

The Commission's related evaluation of the amendment is contained in a safety evaluation dated May 14, 2010.

No significant hazards consideration comments received: No.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the 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. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an

opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr.resource@nrc.gov.*

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and electronically on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If there are problems in accessing the document, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737, or by e-mail to *pdr.resource@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. *Technical*—primarily concerns/issues relating to technical and/or health and safety matters discussed or referenced in the applications.

2. *Environmental*—primarily concerns/issues relating to matters discussed or referenced in the environmental analysis for the applications.

3. *Miscellaneous*—does not fall into one of the categories outlined above.

As specified in 10 CFR 2.309, if two or more petitioners/requestors seek to co-sponsor a contention, the petitioners/requestors shall jointly designate a representative who shall have the authority to act for the petitioners/requestors with respect to that contention. If a requestor/petitioner seeks to adopt the contention of another sponsoring requestor/petitioner, the requestor/petitioner who seeks to adopt the contention must either agree that the sponsoring requestor/petitioner shall act as the representative with respect to that contention, or jointly designate with the sponsoring requestor/petitioner a representative who shall have the authority to act for the petitioners/requestors with respect to that contention.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the

[1] To the extent that the applications contain attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel and discuss the need for a protective order.

effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E–Filing rule (72 FR 49139, August 28, 2007). The E–Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: May 14, 2010.

Description of amendment request: The amendment extends the Completion Time for Technical Specification 3.7.3 "Control Room Emergency Filtration (CREF) System," Condition B, from 24 hours to 48 hours on a one-time basis to support emergent repairs to the Division 2 Return Air Fan.

Date of issuance: May 15, 2010.

Effective date: As of the date of issuance and shall be implemented within 1 day.

Amendment No.: 182.

Facility Operating License No. NPF–43: Amendment revises the technical specifications and the operating license.

Public comments requested as to proposed no significant hazards consideration (NSHC): No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, state consultation, and final NSHC determination are contained in a safety evaluation dated May 15, 2010.

Attorney for licensee: David G. Pettinari, Attorney—Corporate Matters, One Energy Plaza, Detroit, MI 48226.

NRC Branch Chief: Terry A. Beltz (Acting).

Dated at Rockville, Maryland, this 24th day of May 2010.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–12888 Filed 5–28–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–018 and 52–019]

Duke Energy Carolinas, LLC; Duke Energy Carolinas, LLC; William States Lee III Combined License Application; Notice of Intent To Conduct a Supplemental Scoping Process for the Supplement to the Environmental Report

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Intent; Correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on May 24, 2010 (75 FR 28822), that announces a supplemental scoping process for the environmental review of the William States Lee III Nuclear Station, Units 1 and 2 combined licenses application. This action is necessary to correct the project web address.

FOR FURTHER INFORMATION CONTACT: Ms. Sarah Lopas, Project Manager, Office of New Reactors via telephone at (301) 415–1147 or via e-mail to *Sarah.Lopas@nrc.gov*.

SUPPLEMENTARY INFORMATION: On page 28822, in the second column, nineteenth through twenty-first lines, the web address is corrected to read from "*http://www.nrc.gov/reactors/new-licensing/col/lee.html*" to "*http://www.nrc.gov/reactors/new-reactors/col/lee.html*".

Dated at Rockville, Maryland, this 25th day of May 2010.

For the Nuclear Regulatory Commission.

Nilesh C. Chokshi,

Deputy Director, Division of Site and Environmental Reviews, Office of New Reactors.

[FR Doc. C1–2010–13012 Filed 5–28–10; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of Accelerated Delivery of Supplement to the Options Disclosure Document Reflecting Certain Changes to Disclosure Regarding Options on Conventional Index-Linked Securities and Amendment to the Options Disclosure Document Inside Front Cover

May 24, 2010.

On October 27, 2009, The Options Clearing Corporation ("OCC") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Rule 9b–1 under the Securities and Exchange Act of 1934 ("Act"),[1] five preliminary copies of a supplement to its options disclosure document ("ODD") reflecting certain changes to disclosure regarding options on conventional index-linked securities.[2] The ODD would also be amended to update its front inside cover page so that it contains a current list of the U.S. exchanges that trade options issued by the OCC. On May 18, 2010, the OCC submitted to the Commission five definitive copies of the supplement.[3]

The ODD currently contains general disclosures on the characteristics and risks of trading standardized options. Since July 2008, eight options exchanges amended their respective rules to permit the listing and trading of options on conventional index-linked securities.[4] Further, BATS began trading options in February of 2010.[5] The proposed supplement amends the ODD to accommodate these changes by providing disclosures regarding options on conventional index-linked securities and to update the inside front cover page of the ODD to include BATS.[6]

Specifically, the proposed supplement to the ODD adds new disclosure regarding the characteristics of options on conventional index-linked securities,[7] as well as the special risks of these options. In addition, the ODD is amended to add BATS, which currently trades options issued by the OCC, and its corporate address to the front inside cover page of the ODD. This change will ensure that the ODD accurately identifies the markets on which options currently trade. The proposed supplement is intended to be read in conjunction with the more general ODD, which, as described above, discusses the characteristics and risks of options generally.[8]

[1] 17 CFR 240.9b–1.

[2] *See* letter from Jean M. Cawley, Senior Vice President and Deputy General Counsel, OCC, to Sharon Lawson, Senior Special Counsel, Division of Trading and Markets ("Division"), Commission, dated October 27, 2009.

[3] *See* letter from Jean M. Cawley, Senior Vice President and Deputy General Counsel, OCC, to Sharon Lawson, Senior Special Counsel, Division, Commission, dated May 14, 2010.

[4] BATS Exchange, Inc. ("BATS"), Chicago Board Options Exchange, Incorporated, International Securities Exchange, LLC, NASDAQ OMX BX, Inc, NASDAQ OMX PHLX, Inc., NASDAQ Stock Market, LLC, NYSE Amex LLC, and NYSE Arca, Inc. each have provisions in their respective rules for the listing and trading of options on conventional index-linked securities. *See e.g.,* Securities Exchange Act Release Nos. 58203 (July 22, 2008), 73 FR 43812 (July 28, 2008) (SR–NYSEArca–2008–57) (approving listing and trading options on conventional index-linked securities); 58204 (July 22, 2008), 73 FR 43807 (July 28, 2008) (SR–CBOE–2008–64); and 58985 (November 20, 2008), 73 FR 72538 (November 28, 2008) (SR–ISE–2008–86); and *see e.g.,* Securities Exchange Act Release Nos. 60822 (October 14, 2009), 74 FR 54114 (October 21, 2009) (SR–NYSEArca–2009–77) (permitting the listing and trading of options on conventional index-linked securities linked to CBOE VIX); 60823 (October 14, 2009), 74 FR 54112 (October 21, 2009) (SR–NYSEAmex–2009–59); and 60857 (October 21, 2009), 74 FR 55611 (October 28, 2009) (SR–CBOE–2009–74).

[5] *See* Securities Exchange Act Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–31).

[6] The proposed May 2010 Supplement to the ODD amends the February 1994 version of the booklet entitled "Characteristics and Risks of Standardized Options," and portions of the May 2007, June 2007, June 2008, and September 2008 Supplement thereto.

[7] For purposes of the ODD, conventional index-linked securities refer to non-convertible debt of an issuer (with a term of at least one year but not greater than thirty years) that provides for the payment at maturity of a cash amount based directly on the performance of a specified underlying "reference asset." Unlike conventional index-linked securities, leveraged or inverse index-linked securities provide for a cash payment at maturity based on a multiple or inverse of the performance of a specified underlying "reference asset." The Commission notes that, to date, it has only approved trading of options on conventional index-linked securities, and not on leveraged or inverse index-linked securities. Accordingly, the ODD disclosure only covers the characteristics and risks of options on conventional index-linked securities.

[8] The Commission notes that the options markets must continue to ensure that the ODD is in compliance with the requirements of Rule 9b–1(b)(2)(i) under the Act, 17 CFR 240.9b–1(b)(2)(i), including when future changes regarding options on conventional index-linked securities are made. Any future changes to the rules of the options markets concerning options on index linked securities would need to be submitted to the

Continued

Rule 9b–1(b)(2)(i) under the Act [9] provides that an options market must file five copies of an amendment or supplement to the ODD with the Commission at least 30 days prior to the date definitive copies are furnished to customers, unless the Commission determines otherwise, having due regard to the adequacy of information disclosed and the public interest and protection of investors.[10] In addition, five copies of the definitive ODD, as amended or supplemented, must be filed with the Commission not later than the date the amendment or supplement, or the amended options disclosure document, is furnished to customers. The Commission has reviewed the proposed supplement and amendment and finds, having due regard to the adequacy of information disclosed and the public interest and protection of investors, that they may be furnished to customers as of the date of this order.

It is therefore ordered, pursuant to Rule 9b–1 under the Act,[11] that definitive copies of the proposed supplement and amendment to the ODD (SR–ODD–2010–01), reflecting changes to disclosure regarding certain options on conventional index-linked securities and to the inside front cover of the ODD, may be furnished to customers as of the date of this order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–12986 Filed 5–28–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62148; File No. SR–CBOE–2010–045]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Establishment of a Post-Demutualization Trading Permit Application Fee

May 21, 2010.

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 May 14, 2010, the Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by CBOE. 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

CBOE proposes to amend the CBOE and CBOE Stock Exchange ("CBSX") Fees Schedules to establish a Post-Demutualization Trading Permit Application Fee. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal/*), at the Exchange's Office of the Secretary, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the CBOE and CBSX Fees Schedules to establish a Post-Demutualization Trading Permit Application Fee. Following CBOE's proposed demutualization,[3] access to CBOE and CBSX will be provided through the issuance of Trading Permits. Issuance of these Trading Permits will require an application process for all current members with trading privileges and related functions on the Exchange (including member organizations, individual members, temporary members, interim trading permit holders and CBSX trading permit holders). To apply for trading permits, all such CBOE members will be required to submit a Post-Demutualization Trading Permit Application to request the type of access desired following demutualization. The Post-Demutualization Trading Permit Application will need to be submitted prior to the effectiveness of the demutualization for trading access to CBOE and CBSX to continue without interruption at demutualization. The Exchange will administer the application process in the manner that has already been proposed to the Commission, contingent upon the approval of that process by the Commission.[4]

Due to the significant amount of time required to process all of the Post-Demutualization Trading Permit Applications, CBOE proposes to establish a $1,000 Post-Demutualization Trading Permit Application Fee that would be assessed to any member organization or individual member that is not associated with a member organization that submits a Post-Demutualization Trading Permit Application after May 21, 2010. Specifically, the fee would only be assessed for Post-Demutualization Trading Permit Applications received after the close of business on May 21, 2010 and prior to the close of business on the effective date of demutualization.[5]

The Post-Demutualization Trading Permit Application Fee would not be assessed for Post-Demutualization Trading Permit Applications received on or prior to May 21, 2010. The Post-Demutualization Trading Permit Application Fee would also not be assessed to new CBOE members that are not approved and active until after May 21, 2010. In addition, the Post-Demutualization Trading Permit Application Fee would not be assessed for any amendments submitted after May 21, 2010 to Post-Demutualization

Commission under Section 19(b) of the Act. 15 U.S.C. 78s(b).

[9] 17 CFR 240.9b–1(b)(2)(i).

[10] This provision permits the Commission to shorten or lengthen the period of time which must elapse before definitive copies may be furnished to customers.

[11] 17 CFR 240.9b–1.

[12] 17 CFR 200.30–3(a)(39).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 58425 (August 26, 2008), 73 FR 51652 (September 4, 2008) (noticing for comment SR–CBOE–2008–88), which sets forth a description of CBOE's proposed demutualization.

[4] *See* Securities Exchange Act Release No. 58425 (August 26, 2008), 73 FR 51652 (September 4, 2008) (noticing for comment SR–CBOE–2008–88), which sets forth a description of the post-demutualization trading permit application process.

[5] The effective date of demutualization is the date that CBOE completes its restructuring of the Exchange from a non-stock corporation to a stock corporation and wholly-owned subsidiary of CBOE Holdings, Inc. This should be distinguished from the date of approval by the SEC of SR–CBOE–2008–088, as the filing may be approved some period of time prior to the actual effectiveness of the demutualization.

Trading Permit Applications where the initial application was submitted prior to the close of business on May 21, 2010.

The existing CBOE Membership application fees are set forth in Section 11 of the CBOE Fees Schedule as well as in a regulatory circular ("Membership Fees Circular"). The Exchange proposes to add the Post-Demutualization Trading Permit Application Fee to Section 11 of the CBOE Fees Schedule and to revise the Membership Fees Circular. The proposed changes to the CBOE Fees Schedule are included as part of Exhibit 5 to the 19b–4. The proposed changes to the Membership Fees Circular are included as Exhibit 2 to the 19b–4.

CBOE proposes to add a new Section 8 to the CBSX Fees Schedule for Membership Fees that includes the Post-Demutualization Trading Permit Application Fee. The proposed changes to the CBSX Fees Schedule are included as part of Exhibit 5 to the 19b–4.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act") [6], in general, and furthers the objectives of Section 6(b)(4) [7] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. In particular, the proposed fee would be assessed to all members in a consistent manner and encourage the submission of Post-Demutualization Trading Permit Applications with sufficient time to allow for the efficient processing of these applications. CBOE believes this fee is reasonable as compared to other application fees assessed by the Exchange and is reflective of the amount of work necessary to process the applications.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and subparagraph (f)(2) of Rule 19b–4 [9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2010–045 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2010–045. 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CBOE–2010–045 and should be submitted on or before June 22, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–13038 Filed 5–28–10; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62156; File No. SR–FINRA–2010–007]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change To Amend the By-Laws of NASD Dispute Resolution

May 24, 2010.

On January 22, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the by-laws of NASD Dispute Resolution. The proposed rule change was published for comment in the **Federal Register** on March 2, 2010.[3] The Commission received one comment on the proposed rule change.[4] This order approves the proposed rule change.

I. Description of Proposed Rule Change

FINRA proposed to amend the NASD Dispute Resolution By-Laws to: (1) Modify the composition of the FINRA Dispute Resolution Board; (2) adopt changes to conform the NASD Dispute

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 34–61575 (Feb. 23, 2010); 75 FR 9459 (Mar. 2, 2010).

[4] *See* letter from Barry D. Estell, Esq., dated March 24, 2010 ("Estell Letter").

Resolution By-Laws to the FINRA By-Laws; and (3) implement other conforming changes to reflect the corporate name change and other similar matters. The proposed amendments to the NASD Dispute Resolution By-Laws are modeled on those of the FINRA and FINRA Regulation By-Laws (which were both previously approved by the Commission), with modifications as appropriate to the particular functions of FINRA Dispute Resolution.

The following discussion addresses the proposed amendments to NASD Dispute Resolution's By-Laws under the article of the By-Laws of NASD Dispute Resolution in which the amendments would first appear.

Amendments to Article I—Definitions

Article I contains definitions of terms used in the By-Laws. FINRA proposed to add to or amend some of these definitions.

Broker and Dealer

FINRA proposed to amend the definitions of "broker" and "dealer" in Article I to conform them to the definitions of "broker" and "dealer" in the Act, as amended by the Gramm-Leach-Bliley Act of 1999.[5] As proposed, FINRA would incorporate by reference the definitions of the terms "broker" and "dealer" as set forth in Sections 3(a)(4) and 3(a)(5), respectively, of the Act.[6] The Commission approved the same change to definitions of the terms "broker" and "dealer" in the then-NASD Regulation's By-Laws in March 2001.[7]

Corporation

FINRA proposed to add the term "Corporation" to Article I to reflect the change of the Corporation's name from "NASD" to "FINRA." Proposed Article I(e) would define Corporation to mean the National Association of Securities Dealers, Inc., the Financial Industry Regulatory Authority, Inc., or any future name of the entity.

Electronic Transmission

FINRA proposed to add the term "electronic transmission" to Article I to reflect the common usage of electronic transmission as a means of communication.[8] The term "electronic transmission" would be defined to mean communicating or disseminating information or documents to individuals or entities by telegraph, telefax, cable, radio, wireless or other device or method. FINRA intends "other device or method" to include email, text messages, and related technologies, for example.

FINRA Member

FINRA proposed to add the term "FINRA member" to Article I.[9] As proposed, the term "FINRA member" would mean "any broker or dealer admitted to membership in FINRA, whether or not the membership has been terminated or cancelled; and any broker or dealer admitted to membership in a self-regulatory organization that, with FINRA consent, has required its members to arbitrate pursuant to the Code of Arbitration Procedure for Customer Disputes ("Customer Code") or the Code of Arbitration Procedure for Industry Disputes ("Industry Code", and together with the Customer Code, "Codes") and/or to be treated as members of FINRA for purposes of the Codes, whether or not the membership has been terminated or cancelled."

Industry Director or Industry Member and Public Director or Public Member

FINRA proposed to modify the terms "Industry Director" or "Industry member" and "Public Director" or "Public member" in Articles I(k) and I(t), respectively. With regard to the term "Industry Director" or "Industry member", the proposed rule change would amend the NASD Dispute Resolution's By-Laws by separating these definitions into two definitions for ease of reference.[10]

FINRA also proposed to amend the revised terms "Industry Director" and "Industry Member" to limit the look-back test that characterizes committee members as industry if they have served as an officer, director, or employee of a broker or dealer, among other reasons, to the past twelve months. The current provision uses a three-year look-back test. The proposed change would make the definitions of "Industry Director" and "Industry Member" under the NASD Dispute Resolution By-Laws consistent with the definitions of "Industry Director", "Industry Governor", and "Industry committee member" in the FINRA By-Laws.[11]

The proposal would also add the term "independent director" to the portion of the definitions of "Industry Director" and "Industry Member" that excludes outside directors of a broker or dealer. The term "independent director" is synonymous with outside director, but FINRA proposed to add it to the exclusionary clause to harmonize the NASD Dispute Resolution By-Laws with the definition of "Industry Governor" in the FINRA By-Laws.[12]

Similarly, FINRA proposed to modify the term "Public Director" or "Public member" by separating it into two definitions for ease of reference.[13] FINRA would also amend the proposed terms "Public Director" or "Public Member" to clarify that an individual's service as a public director of a self regulatory organization does not disqualify that person from serving as a Pubic Director or Public Member under NASD Dispute Resolution's By-Laws.

Person Associated With a Member or Associated Person of a Member

On June 5, 2009, FINRA filed a proposed rule change to amend Rules 12100(r), 12506(a), and 12902(a) of the Customer Code and Rule 13100(r) of the Industry Code to amend the definition of "associated person," streamline a case administration procedure, and clarify that customers could be assessed hearing session fees based on their own claims for relief in connection with an industry claim.[14] The Commission approved the proposal on October 26, 2009.[15]

Under that proposal, FINRA amended the definition of associated person under the Codes[16] to match the

[5] Pub. L. 106–102, 113 Stat. 1338 (1999).

[6] 15 U.S.C. 78c(a)(4) and (a)(5).

[7] *See* Securities Exchange Act Rel. No. 44052 (March 8, 2001), 66 FR 15157 (March 15, 2001) (File No. SR–NASD–01–13).

[8] The new term "electronic transmission" would be added as proposed Article I(k) of the By-Laws of NASD Dispute Resolution.

[9] The new term "FINRA member" would be added as proposed Article I(*o*) of the By-Laws of NASD Dispute Resolution.

[10] The term "Industry Director" will be defined in proposed Article I(r); "Industry Member" in proposed Article I(s).

[11] *See* FINRA By-Laws, Article I(s) and I(t).

[12] *See* FINRA By-Laws, Article I(t).

[13] The term "Public Director" will be defined in proposed Article I(w); "Public Member" in proposed Article I(x).

[14] *See* Securities Exchange Act Rel. No. 60159 (June 22, 2009), 74 FR 31779 (July 2, 2009) (File No. SR–FINRA–2009–041).

[15] *See* Securities Exchange Act Rel. No. 60878, 74 FR 56679 (Nov. 2, 2009) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of SR–2009–041, as Modified by Amendment No. 1).

[16] Rule 12100(r) of the Customer Code and Rule 13100(r) of the Industry Code define "person associated with a member" to mean: (1) A natural person registered under the Rules of FINRA; or (2) A sole proprietor, partner, officer, director, or branch manager of a member, or a natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a member, whether or not any such person is registered or exempt from registration with FINRA under the By-Laws or the Rules of FINRA.

For purposes of the Code, a person formerly associated with a member is a person associated with a member.

definition in FINRA's By-Laws.[17] The proposal amended the definition of "person associated with a member" in the Codes in two ways: (1) by inserting the word "other" before the second reference to "natural person" to clarify that the definition does not include corporate entities; and (2) by inserting the criterion that a natural person includes someone who has applied for registration.

FINRA proposed to implement the same changes to the definition of associated person of a member in the NASD Dispute Resolution By-Laws, as have been approved recently by the Commission to same definitions under the Codes.

Amendments to Article IV—Board of Directors

FINRA proposed to make limited conforming changes to Article IV to parallel more closely the governance structure of the FINRA Board.

Section 4.3—Qualifications

The proposed rule change would amend Article IV, section 4.3(a) to reflect FINRA's current governance structure by establishing that NASD Dispute Resolution Board members would be drawn exclusively from the FINRA Board. The proposed rule change would also amend section 4.3(a) to streamline the composition of NASD Dispute Resolution's Board and implement a requirement that it contain more Public Directors than Industry Directors. Thus, section 4.3(a) would be amended to state that "the number of Public Directors shall exceed the number of Industry Directors." FINRA's By-Laws contain a similar requirement.[18]

The proposal would make other changes to Article IV, section 4.3 as follows:

- Re-structure the Board to remove the President of NASD Dispute Resolution. The President would not be deemed a Director, and therefore, the proposed rule change would delete several references to the President of NASD Dispute Resolution; [19]
- Clarify that the Chair of the FINRA Board and the Chief Executive Officer of FINRA shall be ex-officio non-voting members of the Board;
- Transfer the task of selecting the Chair of the NASD Dispute Resolution Board from the Board members to NASD Dispute Resolution's stockholder;[20]
- Eliminate the requirement that the Board select a Vice Chair; and
- State that the stockholder will designate the Chair at the same time that the Directors are elected.

Section 4.4—Election

The proposed rule change would eliminate as unnecessary the reference to the first meeting of NASD Regulation at which Directors initially were elected.

Section 4.5—Resignation

The proposal would remove the requirement that Directors submit written notice of resignation to the President. Under the proposal, such notice would be submitted to the Chair of the Board, instead of the President.

Section 4.6—Removal

The proposed rule change would transfer the authority to remove Directors from a majority vote of the FINRA Board to the stockholder of FINRA Regulation.[21] The proposed amendment would reflect Delaware law, which requires that a stock corporation vest the power to remove directors with the stockholder.[22]

Section 4.7—Disqualification

In connection with the proposed change to section 4.3(a), which would require the number of Public Directors to exceed the number of Industry Directors, the proposal would also amend section 4.7 to clarify that when a Director is disqualified from Board service and the Director's remaining term is not more than six months, the Board may continue to operate and will not violate any compositional requirements if it does not replace the disqualified Director.

Section 4.8—Filling of Vacancies

Currently, Directors of FINRA Dispute Resolution are elected annually at the meeting of FINRA Dispute Resolution's stockholder meeting or at a special meeting dedicated to Board elections.[23] When the annual election of Directors is not held on the designated date, the NASD Dispute Resolution By-Laws charge the Directors to "cause such election" to be held.[24] The proposed rule change would confirm that the same process should be used by the FINRA Dispute Resolution Board when filling vacancies among its ranks. Thus, the proposal would amend section 4.8 to provide that the FINRA Board shall "cause the election" of a qualified Director to fill the vacant position.[25]

Section 4.9—Quorum and Voting

The proposed rule change would remove a cross-reference to section 4.14(b) in the quorum provision, and also amend the provision to clarify that, when there is a quorum, a majority vote of the Directors present at a meeting constitutes action of the Board.

Section 4.12—Notice of Meetings; Waiver of Notice

The proposal would clarify the conditions under which the NASD Dispute Resolution Board may meet. The current NASD Dispute Resolution By-Laws provide that a Director may waive notice of a Board meeting by being present at the meeting, so long as

[17] FINRA's By-Laws define "person associated with a member or associated person of a member" as (1) a natural person who is registered or has applied for registration under the Rules of the Corporation; (2) a sole proprietor, partner, officer, director, or branch manager of a member, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a member, whether or not any such person is registered or exempt from registration with the Corporation under these By-Laws or the Rules of the Corporation; and (3) for purposes of Rule 8210, any other person listed in Schedule A of Form BD of a member. *See* By-Laws of the Corporation, Article I, Definitions (rr).

[18] *See* By-Laws of the Corporation, Article VII (Board of Governors), section 4(a).

[19] *See* NASD Dispute Resolution By-Laws, Article IV, Sections 4.3(a) (Qualifications), 4.5 (Resignation), 4.11(c) (Meetings), 4.13(f) (Executive Committee), and 4.13(g) (Finance Committee). Section 141(c)(2) of the General Corporation Law of the State of Delaware provides that "[t]he board of directors may designate 1 or more committees, each committee to consist of 1 or more *directors* of the corporation." (Emphasis added). Committees of the board, therefore, may be comprised exclusively of board members. In addition, any committee of the board that is delegated any power and authority of the board, such as the Executive Committee, must be comprised exclusively of board members. *See* Delaware General Corporation Law, section 141(c)(2).

[20] *See* Delaware General Corporation Law section 142, which allows the sole stockholder to make this selection if expressly provided for in the By-Laws.

[21] The sole stockholder of the capital stock of FINRA Dispute Resolution, Inc. is FINRA, Inc. *See* Article VIII, section 8.1 (Sole Stockholder).

[22] *See* Delaware General Corporation Law, section 141(k). As a practical matter, the FINRA Board generally would be asked to pass a resolution authorizing an officer of FINRA to execute a sole stockholder consent on behalf of FINRA (who is the sole stockholder of FINRA Dispute Resolution) before such a consent is executed. As such, the FINRA Board would have a voice in the matter, but as a matter of Delaware law, the consent authorizing the removal must be executed by a duly authorized officer of FINRA in FINRA's capacity as sole stockholder.

[23] *See* current NASD Dispute Resolution By-Laws, Article IV, section 4.4 (Election).

[24] *Id.*

[25] Pursuant to Delaware law, FINRA, as the sole stockholder of FINRA Dispute Resolution, has the authority to execute a stockholder consent electing an individual to the fill the vacancy pursuant to directions of the FINRA Board. Alternatively, the FINRA Board may pass a resolution making it known who they would like appointed to fill the vacancy. Under this scenario, it is likely that the remaining members of the FINRA Dispute Resolution Board will follow the advice of its controlling stockholder and elect the recommended individual. *See* Delaware General Corporation Law, section 223.

the Director did not attend the meeting solely to object to the meeting taking place.[26] FINRA proposed to amend section 4.12(c) to clarify that a Board meeting is a legal meeting if all Directors are present and no Director is present solely for the purpose of objecting to the meeting taking place.

The proposed rule change also would amend section 4.12(a) and (b) to replace the phrase "telegraph, telefax, cable, radio, or wireless" with the new term "electronic transmission."[27] For an explanation of the term "electronic transmission," see the discussion under "Amendments to Article I—Definitions" above.

Section 4.13—Committees

As explained under the discussion of section 4.3(a), the proposal would implement a requirement that the FINRA Dispute Resolution Board contain more Public Directors than Industry Directors.[28] In furtherance of this change, references throughout Article IV to balancing "Industry" and "Non-Industry" Board members would be replaced with references to balancing "Industry" and "Public" Board members. Similarly, the proposal would remove the requirement that the Executive Committee include at least one Non-Industry Member and institute the requirement that Public Directors shall exceed Industry Directors on FINRA Dispute Resolution's Executive Committee of the Board.[29]

Section 4.15—Action Without Meeting

The proposal would make a related change to section 4.15 to eliminate the requirement that unanimous consent for taking action without a meeting specifically be in writing and filed with the minutes of the meeting. Instead, the proposal would require the consent to be "in accordance with applicable law," which in the instance of FINRA Dispute Resolution, would be Delaware law.

Amendment to Article V—Officers, Agents, and Employees

Section 5.1—Officers

As explained under the discussion of Article IV, section 4.3, the proposed rule change would re-structure the Board to remove the President of FINRA Dispute Resolution as a Director of the Board.[30] In connection with this change, the proposal would remove a reference to the President from section 5.1, so that the amended language would state, in relevant part, that none of the officers need to be Directors of FINRA Dispute Resolution.

Amendments to Article VIII—Capital Stock

Section 8.3—Signatures

The proposed rule change would amend several provisions regarding FINRA Dispute Resolution's capital stock. Currently, under section 8.3(a), FINRA's approach to the corporate law issue of signing certificates representing shares of FINRA Dispute Resolution capital stock is to have these shares signed by FINRA Dispute Resolution officers. Under the proposed re-structuring of the Board, FINRA Dispute Resolution would not have an officer as Chair of the Board. Thus, FINRA proposed to remove the provision that permits the Chair of the Board to sign stock certificates, and limit the authority to sign such certificates to the President, Vice President, Secretary or Treasurer of FINRA Dispute Resolution.

FINRA proposed to amend section 8.3(b) to remove the limitations on the type of signatures required on certificates of capital stock. The current provision states, in relevant part, that "if any such certificates are countersigned by a transfer agent other than NASD Dispute Resolution or its employee, or by a registrar other than NASD Dispute Resolution or its employee, any other signature on the certificate may be a facsimile." The proposed amendment would eliminate limitations on when signatures on certificates representing shares of FINRA Dispute Resolution's capital stock may be facsimiles and permit any signature to be a facsimile. Thus, under the proposal, the provision would be amended to state that "any signature on the stock certificate may be a facsimile."

Section 8.4—Stock Ledger

Currently, section 8.4(a) of the NASD Dispute Resolution By-Laws requires that the FINRA Dispute Resolution Secretary, or another officer, employee, or agent, keep a record of FINRA Dispute Resolution's capital stock ownership and "the number of shares represented by each such certificate." FINRA proposed to change several references to "capital stock" to "certificates representing shares of capital stock" or similar constructions, instead of "certificates for shares of capital stock."[31]

Amendments to Article IX—Miscellaneous Provisions

Section 9.3—Waiver of Notice

FINRA proposed to amend section 9.3(a) of the NASD Dispute Resolution By-Laws to replace the phrase "telegraph, telefax, cable, radio, or wireless" with the new term "electronic transmission."[32]

Conforming Changes Relating to the New FINRA Name and Other Technical Changes

FINRA proposed to implement certain other non-substantive changes to all articles of the NASD Dispute Resolution By-Laws, as follows:

- "The NASD" or "NASD" would be replaced with "FINRA" or "the Corporation;"
- "NASD Dispute Resolution" would be changed to "FINRA Dispute Resolution;"
- "The Rules of the Association" would be replaced with "the Rules of the Corporation;"
- "National Nominating Committee" would be replaced with "Nominating Committee;"
- A reference to "FINRA Regulation" would be added; and
- "Association" would be replaced with "Corporation."

FINRA also proposed to amend Article II, section 2.1 to change the name and address of the registered agent from The Corporation Trust Company, 1209 Orange Street, Wilmington, DE 19801 to Corporation Creations Network Inc., 1308 Delaware Avenue, Wilmington, DE 19806.

II. Comments

The Commission received one comment on the proposed rule change,[33] as well as FINRA's response

[26] *See* current NASD Dispute Resolution By-Laws, Article IV, section 4.12(b) (Notice of Meeting; Waiver of Notice) and Article IX, section 9.3(b) (Waiver of Notice).

[27] FINRA proposed similar changes to Article IV, Section 4.12 (Notice of Meeting; Waiver of Notice) and Article XII, Section 12.3 (Waiver of Notice) of the FINRA Regulation By-Laws. *See* Securities Exchange Act Rel. No. 59696 (April 2, 2009), 74 FR 16020 (April 8, 2009) (File No. SR–FINRA–2009–020).

[28] *See also* proposed Article I(r) (Industry Director); proposed Article I(s) (Industry Member); proposed Article I(w) (Public Director); and proposed Article I(x) (Public Member).

[29] *See* Article IV, section 4.12(f) (Executive Committee).

[30] *Supra* note 18.

[31] The proposal would delete as imprecise the words "certificates for" in the discussion of potential registration of shares of capital stock. *See* proposed NASD Dispute Resolution By-Laws, Article VIII, section 8.4(b) (Stock Ledger), 8.5 (Transfers of Stock), 8.6 (Cancellation), and 8.7 (Lost, Stolen, Destroyed, and Mutilated Certificates).

[32] *See supra* note 26, and the explanation of the term "electronic transmission" under "Amendments to Article I—Definitions."

[33] *See supra,* note 4.

to the comment.[34] The commenter opposed the rule filing arguing that the proposed rule change would not "redound to the benefit of investors" because: (1) The Chair of the FINRA Dispute Resolution Board would be selected by FINRA; (2) FINRA, by selecting the Chair of the FINRA Dispute Resolution Board, may prevent a director of FINRA Dispute Resolution from "suggesting a measure that might bring some element of fairness to the dispute resolution process"; and (3) FINRA would have the power to remove directors of FINRA Dispute Resolution.[35]

FINRA responded to the commenter's concern regarding the selection of the Chair of the FINRA Dispute Resolution Board by stating that since the FINRA Board is comprised of a majority of public governors, "the majority will be able to represent the interests of the investing public regarding the selection of the [Chair of the FINRA Dispute Resolution Board]".[36] FINRA also noted that, "as the proposed FINRA Dispute Resolution By-Laws require that the number of Public Directors exceeds the number of Industry Directors, matters affecting the dispute resolution process also would be controlled by a majority of Public Directors".[37]

With respect to the commenter's concern that the proposed rule change would provide the Chair with the authority to prevent matters from being raised at a meeting, FINRA stated that the Chair cannot prevent an item from being raised at a meeting. FINRA also noted that any member of the Board may raise a matter for consideration and that the Chair may influence when the matter is heard, but cannot prevent it from being heard.[38]

In response to the commenter's concern regarding FINRA's power to remove directors of FINRA Dispute Resolution with or without cause, FINRA reiterated that Delaware law requires that the stockholder have the power to remove directors. Since FINRA is the stockholder of FINRA Dispute Resolution, the removal of a Director from FINRA Dispute Resolution's Board is also a function that is controlled by FINRA's Board. FINRA also stated that since the FINRA Board is comprised of a majority of public governors, that majority would consider the public interests and market implications in determining whether to remove a Director from FINRA Dispute Resolution's Board.[39]

III. Discussion and Findings

After careful review of the proposed rule change, the comment received, and FINRA's response to the comment, the Commission finds the proposed rule change to be consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[40] In particular, the Commission finds that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act.[41], which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change is consistent with FINRA's obligations under the Act. In particular, the proposed rule change will conform definitions in the By-Laws with definitions in the Act, as well as to the By-Laws of FINRA and FINRA Regulation. The proposed rule change will also conform other provisions of the By-Laws with the FINRA and FINRA Regulation By-Laws and be consistent with Delaware law, under which all the entities are organized. In addition, the proposed rule change would clarify that FINRA members remain subject to the requirements of the Codes after their membership has been terminated or cancelled.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities association.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[42] that the proposed rule change (SR–FINRA–2010–007) be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–13005 Filed 5–28–10; 8:45 am]

BILLING CODE 8011–01–P

[34] See letter from Mignon McLemore, Assistant Chief Counsel, FINRA Dispute Resolution, dated May 5, 2010 ("FINRA Letter").

[35] *See* Estell Letter.

[36] *See* FINRA Letter at page 1.

[37] *Id.*

[38] *See* FINRA Letter at page 2.

[39] *Id.*

[40] 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).

[41] 15 U.S.C. 78o–3(b)(6).

[42] 15 U.S.C. 78s(b)(2).

[43] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62160; File No. SR–FINRA–2010–027]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating to the Restated Certificate of Incorporation of Financial Industry Regulatory Authority, Inc.

May 24, 2010.

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 May 21, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to amend the Restated Certificate of Incorporation of FINRA (the "Certificate of Incorporation") to specify the quorum requirements for a meeting of FINRA members, in anticipation of amendments to the General Corporation Law of the State of Delaware (the "General Corporation Law"). The proposed rule change would serve to maintain the status quo with respect to the quorum requirements for meetings of members.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* on the Commission's Web site at *http://www.sec.gov,* at the principal office of FINRA and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change would amend FINRA's Certificate of Incorporation to specify the quorum required at a meeting of FINRA members and where a separate vote by classes or groups is required. FINRA is proposing this rule change in anticipation of amendments to the General Corporation Law, described in detail below, to preserve FINRA's current quorum requirements.

FINRA is a nonstock corporation under the General Corporation Law. Generally, Section 215(c) of the General Corporation Law provides that the certificate of incorporation or bylaws of a nonstock corporation may specify the number of members having voting power who shall be present or represented by proxy at any meeting in order to constitute a quorum for, and the votes that shall be necessary for, the transaction of any business.[3] However, in the absence of such specification in the certificate of incorporation or bylaws of a nonstock corporation, one-third of the members of such corporation constitute a quorum at a meeting of such members.[4]

Neither FINRA's Certificate of Incorporation nor its By-Laws specify the quorum required at a meeting of its members. Accordingly, pursuant to Section 215(c)(1) of the General Corporation Law, attendance in person or by proxy of one-third of FINRA members currently constitutes a quorum at a meeting of such members.[5]

On August 1, 2010, the General Corporation Law will be amended to, among other things, clarify the application of the statute to nonstock corporations. As part of the amendments, a new Section 215(c)(4) will define the quorum necessary to take action where a separate vote by a class or group of members is required and the certificate of incorporation or bylaws of the nonstock corporation do not specify the requisite quorum. Specifically, from and after August 1, 2010, if the certificate of incorporation or bylaws of a nonstock corporation do not specify the quorum necessary to transact business at a meeting of its members, (1) one-third of the members shall constitute a quorum at a meeting of members; and (2) "[w]here a separate vote by a class or group or classes or groups is required, *a majority* of the members of such class or group or classes or groups, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter * * *"[6]

FINRA is proposing an amendment to its Certificate of Incorporation to maintain the status quo with respect to its current quorum requirements. Accordingly, the proposed rule change would amend Article Ninth of FINRA's Certificate of Incorporation to specify that, at all meetings of members of FINRA, the presence in person or by proxy of one-third of the members entitled to vote at the meeting shall be necessary and sufficient to constitute a quorum; provided, however, where a separate vote by a class or group or classes or groups is required, the presence in person or by proxy of one-third of the members of such class or group or classes or groups shall be necessary and sufficient to constitute a quorum with respect to that vote on that matter.

By specifying the quorum requirements in the Certification of Incorporation, the proposed rule change would maintain the one-third quorum requirement where separate votes of classes or groups of members is required, thus avoiding the new default quorum requirement (*i.e.,* a majority) for such votes as set forth in the new Section 215(c)(4) of the General Corporation Law. Pursuant to the FINRA Certificate of Incorporation and the FINRA By-Laws, members vote as three distinct classes, based upon firm size, to elect the FINRA Board of Governors, *i.e.,* Small Firm Governors, Mid-Size Firm Governors and Large Firm Governors. In this regard, the proposed rule change not only would preserve the status quo, but it also would facilitate the ability of members to conduct business at meetings and exercise their voting rights.

The effective date of the proposed rule change will be the date of approval by the Commission; provided, however, assuming Commission approval of the proposed rule change, the amendment to the Certificate of Incorporation will become effective upon filing with the Secretary of State of the State of Delaware.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[7] including Section 15A(b)(2) of the Act,[8] in that it will permit FINRA to carry out the purposes of the Act, to comply with the Act, and to enforce compliance by FINRA members and persons associated with members with the Act, the rules and regulations thereunder, and FINRA rules. The proposed rule change will preserve FINRA's current quorum requirements, facilitating the ability of members to conduct business at meetings.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

[3] Del. Code Ann. tit. 8 § 215(c) (2010).

[4] Del. Code Ann. tit. 8 § 215(c)(1) (2010).

[5] Del. Code Ann. tit. 8 § 215(c)(1) (2010).

[6] Del. H.B. 341, 145th Gen. Assem. § 19 (2010) (emphasis added).

[7] 15 U.S.C. 78*o*–3.

[8] 15 U.S.C. 78*o*–3(b)(2).

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2010–027 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2010–027. 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2010–027 and should be submitted on or before June 22, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–12987 Filed 5–28–10; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice 7033]

Assistance to the Autonomous Government of Southern Sudan and the United States Contribution to the Global Fund To Fight AIDS, Tuberculosis and Malaria (Global Fund) for Fiscal Year 2008

AGENCY: Department of State.

ACTION: Notice of a Waiver Determination under Section 202(d)(4)(A)(ii) of the United States Leadership against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, as amended, for Fiscal Year 2008.

SUMMARY: This is a notice of a waiver determination under Section 202(d)(4)(A)(ii) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, as amended by the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (the Leadership Act). The Leadership Act requires that the U.S. Global AIDS Coordinator withhold from the U.S. contribution to the Global Fund an amount equal to expenditures by the Global Fund in the previous fiscal year to governments of countries that have been determined to have repeatedly provided support for acts of international terrorism in accordance with section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405 (j)(1)) (the "6(j) list").

The government of the Republic of Sudan is designated on the "6(j) list." Thus, Global Fund expenditures to the Government of the Republic of Sudan trigger a withholding requirement from the U.S. contribution to the Global Fund, subject to the waiver authority provided for Global Fund expenditures in Southern Sudan. During FY 2007, $260,139 was provided to government entities in Southern Sudan under malaria and HIV/AIDS grants, thus triggering a potential withholding requirement in this amount from the FY 2008 U.S. contribution to the Global Fund. These funds were used to support malaria treatment, create State HIV/AIDS Commissions in all ten southern Sudan states, provide needed financial support for project specialists, and meet other incurred expenses under HIV/AIDS and malaria grants.

Under the Leadership Act, the President has authority to waive the withholding requirement for assistance overseen by the Southern Sudan Country Coordinating Mechanism (SSCCM) if such an action is justified by the national interest or for humanitarian reasons. This authority has been delegated to the U.S. Global AIDS Coordinator. The United States places a high priority on ensuring appropriate disbursement and expenditure of foreign development and humanitarian funding. Following consultations with the relevant Congressional committees, the U.S. Global AIDS Coordinator has determined waiver of the withholding requirement for assistance by the Global Fund to the Autonomous Government of Southern Sudan through the Global Fund SSCCM is justified for humanitarian reasons. The application of the withholding requirement of Section 202(d)(4)(A)(ii) of the Act is hereby waived with respect to such assistance, allowing for the additional contribution of $260,139 to the Global Fund from the FY 2008 appropriations for the U. S. contribution to the Global Fund. This notice of waiver determination is published in the **Federal Register** in compliance with Section 202(d)(4)(A)(ii) of the Leadership Act.

DATES: *Date Effective:* May 26, 2010.

FOR FURTHER INFORMATION CONTACT: Margaret Lidstone, Director, Multilateral Diplomacy, Office of the Global AIDS Coordinator (202) 663–2586.

Dated: May 14, 2010.

Eric P. Goosby,

Ambassador, Office of the U.S. Global AIDS Coordinator, Department of State.

[FR Doc. 2010–13060 Filed 5–28–10; 8:45 am]

BILLING CODE 4701–10–P

DEPARTMENT OF STATE

[Public Notice 7032]

Culturally Significant Objects Imported for Exhibition Determinations: "Dynasty and Divinity: Ife Art in Ancient Nigeria"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et*

[9] 17 CFR 200.30–3(a)(12).

seq.), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Dynasty and Divinity: Ife Art in Ancient Nigeria," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Museum of Fine Arts, Houston, TX, from on or about September 19, 2010, until on or about January 9, 2011; at the Virginia Museum of Fine Arts, Richmond, VA, from on or about February 19, 2011, until on or about May 22, 2011; at the Indianapolis Museum of Art, Indianapolis, IN, from on or about July 10, 2011, until on or about October 9, 2011; at the Museum for African Art, New York, NY, from on or about November 11, 2011, until on or about March 4, 2012, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/632–6473). The address is U.S. Department of State, SA–5, L/PD, Fifth Floor, Washington, DC 20522–0505.

Dated: May 21, 2010.

Maura M. Pally,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2010–13066 Filed 5–28–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket Number: DOT–OST–2009–0208]

Application of Kaiserair, Inc. for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 2010–5–25).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding KaiserAir, Inc., fit, willing, and able, and to provide interstate charter air transportation of persons, property, and mail using one large aircraft.

DATES: Persons wishing to file objections should do so no later than June 7, 2010.

ADDRESSES: Objections and answers to objections should be filed in Docket DOT–OST–2009–0208 and addressed to U.S. Department of Transportation, Docket Operations, (M–30, Room W12–140), 1200 New Jersey Avenue, SE., West Building Ground Floor, Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Michael Price, Air Carrier Fitness Division (X–56, Room W86–462), U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–9721.

Dated: May 24, 2010.

Susan Kurland,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 2010–13022 Filed 5–28–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2010–0076]

Notice of Funding Availability for the Department of Transportation's National Infrastructure Investments Under the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act for 2010

AGENCY: Office of the Secretary of Transportation, DOT.

ACTION: Notice of funding availability.

SUMMARY: This notice announces the availability of funding and requests proposals for the Department of Transportation's National Infrastructure Investments. In addition, this notice announces selection criteria and pre-application and application requirements for the National Infrastructure Investments.

On December 16, 2009, the President signed the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act for 2010 (Div. A of the Consolidated Appropriations Act, 2010 (Pub. L. 111–117, Dec. 16, 2009)) ("FY 2010 Appropriations Act"). The FY 2010 Appropriations Act appropriated $600 million to be awarded by the Department of Transportation ("DOT") for National Infrastructure Investments. This appropriation is similar, but not identical to the appropriation for the Transportation Investment Generating Economic Recovery, or "TIGER Discretionary Grant", program authorized and implemented pursuant to the American Recovery and Reinvestment Act of 2009 (the "Recovery Act"). Because of the similarity in program structure, DOT is referring to the grants for National Infrastructure Investments under the FY 2010 Appropriations Act as "TIGER II Discretionary Grants". As with the TIGER program, funds for the TIGER II program are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area or a region. Through this notice, DOT is soliciting applications for TIGER II Discretionary Grants.

On April 26, 2010, DOT published an interim notice announcing the availability of funding for TIGER II Discretionary Grants. Because this is a new program, the interim notice also requested comments on the proposed selection criteria and guidance for awarding TIGER II Discretionary Grants. DOT considered the comments that were submitted in accordance with the interim notice and decided to publish this notice revising some elements of the interim notice. Each of the substantive revisions made in this notice are described below in "Supplemental Information." In the event that this solicitation does not result in the award and obligation of all available funds, DOT may decide to publish an additional solicitation.

DATES: Pre-applications must be submitted by July 16, 2010, at 5 p.m. EDT (the "Pre-Application Deadline"). Final applications must be submitted through Grants.gov by August 23, 2010, at 5 p.m. EDT (the "Application Deadline"). The DOT pre-application system will open no later than June 23, 2010 to allow prospective applicants to submit pre-applications. Subsequently, the Grants.gov "Apply" function will open on July 30, 2010, allowing applicants to submit applications. While applicants are encouraged to submit pre-applications in advance of the Pre-Application Deadline, pre-applications will not be reviewed until after the Pre-Application Deadline. Similarly, while applicants are encouraged to submit applications in advance of the Application Deadline, applications will not be evaluated, and awards will not be made, until after the Application Deadline. Pursuant to the FY 2010 Appropriations Act, DOT will evaluate all applications and announce the

projects that have been selected to receive TIGER II Discretionary Grants no sooner than September 15, 2010.

ADDRESSES: Pre-applications must be submitted electronically to DOT and applications must be submitted electronically through Grants.gov. Only pre-applications received by DOT and applications received through Grants.gov will be deemed properly filed. Instructions for submitting pre-applications to DOT and applications through Grants.gov are included in Section VIII *(Pre-Application and Application Cycle).*

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice please contact the TIGER II Discretionary Grant program manager via e-mail at *TIGERIIGrants@dot.gov,* or call Robert Mariner at 202–366–8914. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993. In addition, DOT will regularly post answers to questions and requests for clarifications on DOT's Web site at *http://www.dot.gov/recovery/ost/TIGERII.*

SUPPLEMENTARY INFORMATION: On April 26, 2010, DOT published an interim notice announcing funding availability for the TIGER II Discretionary Grant program. Because this is a new program, the interim notice also requested comments on the proposed selection criteria and guidance for awarding TIGER II Discretionary Grants. DOT considered the comments that were submitted in accordance with the interim notice and decided to publish this notice revising some elements of the interim notice. Each of the substantive revisions made in this notice are described in the following numbered paragraphs.

This notice revises the interim notice published on April 26, 2010, as follows:

1. The notice is no longer an interim notice, and DOT is no longer considering comments on the proposed selection criteria and guidance for awarding TIGER II Discretionary Grants. This notice is the operative notice of funding availability for the TIGER II Discretionary Grant program.

2. In the interim notice, DOT indicated that it was seeking comments on its intention to conduct a multi-agency evaluation and award process with the Department of Housing and Urban Development ("HUD") for DOT's TIGER II Planning Grants (as defined below in the "Background" section) and HUD's Community Challenge Planning Grants, which were also authorized under the FY 2010 Appropriations Act. DOT and HUD have considered the comments that were submitted and have agreed to conduct a multi-agency evaluation and award process for their respective planning grants. This approach is consistent with DOT and HUD's participation in the "Partnership for Sustainable Communities" with the U.S. Environmental Protection Agency ("EPA") to help American families in all communities—rural, suburban and urban—gain better access to affordable housing, more transportation options, lower transportation costs, and a cleaner environment. The details of this multi-agency planning grant program, including information about eligibility, selection criteria, and pre-application and application requirements, are described in a joint notice of funding availability to be published in the **Federal Register** by DOT and HUD. The joint notice will be published shortly after this notice and signed by the Secretaries of each agency. Interested parties are encouraged to review the joint notice for more information. However, DOT applicants may request funding for planning and capital expenses for the same project under this notice.

3. This notice provides additional guidance in the "Background" section about the matching funds required to satisfy the FY 2010 Appropriations Act. DOT will consider any non-Federal funds as a local match for purposes of this program, whether such funds are contributed by the public sector (State or local) or the private sector. However, DOT will not consider funds already expended as a local match. Furthermore, the 20 percent matching requirement for project that are not in rural areas is an eligibility requirement. All projects, whether in an urban or rural area, can increase their competitiveness by demonstrating significant contributions in excess of the required local match, and DOT will give priority, based on the FY 2010 Appropriations Act, to projects for which Federal funding is required to complete an overall financing package.

4. This notice clarifies the definition of "rural area" that DOT is using for purposes of the TIGER II Discretionary Grant program. The interim notice stated that DOT will consider a project to be in a rural area if "all or a material portion of a project is located in a rural area". This notice clarifies that DOT will only consider a material portion of a project to be located in a rural area if the majority of the project is located in a rural area. The reason this language was included in the notice was to ensure that rural transportation corridors could be considered to be in rural areas even if the corridors terminate in, or otherwise pass through, Urbanized Areas (as such term is defined by the Census Bureau). To the extent more than a *de minimis* portion of a project is located in an Urbanized Area, this notice asks applicants to identify the estimated percentage of project costs that will be spent in the Urbanized Area. This will allow DOT to appropriately account for the $140 million that the FY 2010 Appropriations Act sets aside for rural areas. Also, this notice revises the footnote in Section V *(Projects in Rural Areas)* to clarify that rural areas include any area not in an Urbanized Area, as such term is defined by the Census Bureau, including Urban Clusters.

5. This notice revises Section II(B)(1)(b)(ii) *(Environmental Approvals)* to provide additional guidance about the assurance that applicants should provide with their pre-applications to demonstrate that the project has received (or reasonably anticipates receipt of) all necessary environmental approvals required for the project to proceed rapidly upon receipt of a TIGER II Discretionary Grant.

6. This notice revises the Economic Competitiveness criterion described in Section II(B)(1)(a)(ii) and the guidance for conducting a benefit-cost analysis provided in Appendix A to further clarify what the Department considers to be long-term economic benefits.

This notice revises Section VI (*TIGER II TIFIA Payments*) to clarify that the correct amount of the TIFIA application fee is $50,000, not $30,000. Applicants do not need to submit this fee with their application for a TIGER II TIFIA Payment. However, if a project is selected for a TIGER II TIFIA Payment, the project sponsor will be invited to submit a TIFIA application, and will be required to pay the TIFIA application fee with submission of the TIFIA application. These substantive changes to the interim notice published on April 26, 2010, have been included in this notice. All comments received prior to the May 7, 2010, deadline were received and considered by DOT.

Table of Contents

I. Background
TIGER II Discretionary Grants
II. Selection Criteria and Guidance on Application of Selection Criteria
III. Evaluation and Selection Process
IV. Grant Administration
V. Projects in Rural Areas
VI. TIGER II TIFIA Payments
VII. TIGER II Planning Grants Application Requirements
VIII. Pre-Application and Application Cycle
IX. Project Benefits
X. Questions and Clarifications
Appendix A: Additional Information on Cost Benefit Analysis

Appendix B: Additional Information on Applying Through Grants.gov

I. Background

Recovery Act TIGER Discretionary Grants

On February 17, 2009, the President of the United States signed the Recovery Act, which appropriated $1.5 billion of discretionary grant funds to be awarded by DOT for capital investments in surface transportation infrastructure. DOT refers to these grants as Grants for Transportation Investment Generating Economic Recovery or "TIGER Discretionary Grants". DOT solicited applications for TIGER Discretionary Grants through a notice of funding availability published in the **Federal Register** on June 17, 2009 (an interim notice was published on May 18, 2009). Applications for TIGER Discretionary Grants were due on September 15, 2009 and DOT received over 1400 applications with funding requests totaling almost $60 billion. Funding for 51 projects totaling nearly $1.5 billion was announced on February 17, 2010. Grant announcements ranged from $3.15 million to $105 million for individual projects, with an average award size of approximately $30 million and the median award amount being $22 million. Less than three percent of the applications (by dollar value) received any funding. Projects were selected for funding based on their alignment with the selection criteria specified in the June 17, 2009, **Federal Register** notice for the TIGER Discretionary Grant program.

On December 16, 2009, the President signed the FY 2010 Appropriations Act, which appropriated $600 million to DOT for National Infrastructure Investments using language that is similar, but not identical, to the language in the Recovery Act authorizing the TIGER Discretionary Grants. DOT is referring to the grants for National Infrastructure Investments as TIGER II Discretionary Grants.

TIGER II Discretionary Grants

Like the TIGER Discretionary Grants, TIGER II Discretionary Grants are for capital investments in surface transportation infrastructure and are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region. Key requirements of the TIGER II Discretionary Grant program are summarized below, and material differences from the TIGER Discretionary Grant program are highlighted.

"Eligible Applicants" for TIGER II Discretionary Grants are State and local governments, including U.S. territories, tribal governments, transit agencies, port authorities, metropolitan planning organizations (MPOs), other political subdivisions of State or local governments, and multi-State or multi-jurisdictional groups applying through a single lead applicant (for multi-jurisdictional groups, each member of the group, including the lead applicant, must be an otherwise eligible applicant as defined in this paragraph).

Projects that are eligible for TIGER II Discretionary Grants under the FY 2010 Appropriations Act ("Eligible Projects") include, but are not limited to: (1) Highway or bridge projects eligible under title 23, United States Code; (2) public transportation projects eligible under chapter 53 of title 49, United States Code; (3) passenger and freight rail transportation projects; and (4) port infrastructure investments. Federal wage rate requirements included in subchapter IV of chapter 31 of title 40, United States Code, apply to all projects receiving funds. This description of Eligible Projects is, in practice, identical to the description of eligible projects under the TIGER Discretionary Grant program.[1]

The FY 2010 Appropriations Act requires a new solicitation of applications and, therefore, any unsuccessful applicant for a TIGER Discretionary Grant that wishes to be considered for a TIGER II Discretionary Grant must reapply according to the procedures in this notice.

The FY 2010 Appropriations Act specifies that TIGER II Discretionary Grants may be not less than $10 million and not greater than $200 million. The comparable figures for TIGER Discretionary Grants funded under the Recovery Act were $20 million and $300 million, although the largest grant announced under the TIGER program was $105 million. Based on DOT's experience with the TIGER Discretionary Grant program, it is unlikely that the $200 million maximum grant size for the TIGER II Discretionary Grant program will be reached for any project. The Recovery Act gave DOT discretion to waive the minimum grant size for significant projects in smaller cities, regions, or States. The FY 2010 Appropriations Act does not provide similar authority to waive the minimum $10 million grant size for TIGER II Discretionary Grants. However, for projects located in rural areas (as defined in section V *(Projects in Rural Areas)*), the minimum TIGER II Discretionary Grant size is $1 million. The term "grant" in the provision of the FY 2010 Appropriations Act specifying a minimum grant size does not include TIGER II TIFIA Payments, as defined below.

Pursuant to the FY 2010 Appropriations Act, no more than 25 percent of the funds made available for TIGER II Discretionary Grants (or $150 million) may be awarded to projects in a single State. The comparable figure for TIGER Discretionary Grants was 20 percent (or $300 million).

The FY 2010 Appropriations Act directs that not less than $140 million of the funds provided for TIGER II Discretionary Grants is to be used for projects located in rural areas. There was no comparable amount set aside for rural areas under the Recovery Act for TIGER Discretionary Grants. In awarding TIGER II Discretionary Grants pursuant to the FY 2010 Appropriations Act, DOT must take measures to ensure an equitable geographic distribution of grant funds, an appropriate balance in addressing the needs of urban and rural areas and the investment in a variety of transportation modes. The Recovery Act provided a similar provision for the TIGER Discretionary Grant program, but with no language on ensuring investments in a variety of transportation modes.

TIGER II Discretionary Grants may be used for up to 80 percent of the costs of a project, but priority must be given to projects for which Federal funding is required to complete an overall financing package and projects can increase their competitiveness by demonstrating significant non-Federal contributions.[2] The Recovery Act included a similar priority for TIGER Discretionary Grants, but allowed DOT to fund up to 100 percent of the costs of a project. For TIGER II Discretionary Grants, DOT may increase the Federal

[1] Consistent with the FY 2010 Appropriations Act, DOT will apply the following principles in determining whether a project is eligible as a capital investment in surface transportation: (1) Surface transportation facilities generally include roads, highways and bridges, ports, freight and passenger railroads, transit systems, and projects that connect transportation facilities to other modes of transportation; and (2) surface transportation facilities also include any highway or bridge project eligible under title 23, U.S.C., or public transportation project eligible under chapter 53 of title 49, U.S.C. Please note that the Department may use a TIGER II Discretionary Grant to pay for the surface transportation components of a broader project that has non-surface transportation components, and applicants are encouraged to apply for TIGER II Discretionary Grants to pay for the surface transportation components of these projects.

[2] DOT will consider any non-Federal funds for purposes of meeting the 20 percent match requirement, whether such funds are contributed by the public sector (State or local) or the private sector; however, DOT will not consider funds already expended for purposes of meeting the 20 percent match requirement.

share above 80 percent only for projects located in rural areas, in which case DOT may fund up to 100 percent of the costs of a project. However, the statutory requirement to give priority to projects that use Federal funds to complete an overall financing package applies to projects located in rural areas as well, and projects located in rural areas can increase their competitiveness for purposes of the TIGER II program by demonstrating significant non-Federal financial contributions.

The Recovery Act required DOT to give priority to projects that were expected to be completed by February 17, 2012. The FY 2010 Appropriations Act does not include any similar requirements for the TIGER II Discretionary Grants, although TIGER II funds are only available for obligation through September 30, 2012.

The Recovery Act emphasizes the generation of near-term economic effects from expenditures on project costs, such as construction job creation, as a fundamental goal of the TIGER Discretionary Grant program. However, the FY 2010 Appropriations Act does not include explicit emphasis on job creation and instead focuses more broadly on the impact of projects on the Nation, a metropolitan area, or a region including the medium and long-term benefits that would accrue post-project completion. Therefore, in all cases, TIGER II Discretionary Grant applications will need to be competitive on the merits of the medium to long-term impacts of the projects themselves, as demonstrated by a project's alignment with the Long-Term Outcomes selection criterion described in Section II(A) *(Selection Criteria)* below. However, because communities nationwide continue to face difficult economic times, DOT will also continue to incorporate near-term impacts like job creation in its evaluation of TIGER II applications, as demonstrated by a project's alignment with the Job Creation & Economic Stimulus selection criterion described in Section II(A) below. Consideration of near-term benefits will apply particularly in the case of projects that will employ people in Economically Distressed Areas as discussed in more detail in Section II(A) below.

The FY 2010 Appropriations Act allows for an amount not to exceed $150 million of the $600 million to be used to pay the subsidy and administrative costs of the Transportation Infrastructure Finance and Innovation Act of 1998 ("TIFIA") program, a Federal credit assistance program, if it would further the purposes of the TIGER II Discretionary Grant program. DOT is referring to these payments as "TIGER II TIFIA Payments." The Recovery Act authorized DOT to use up to $200 million of the amount available for TIGER Discretionary Grants for similar purposes.

Based on the subsidy amounts required for projects in the TIFIA program's existing portfolio, DOT estimates that $150 million of TIGER II TIFIA Payments could support approximately $1.5 billion in TIFIA credit assistance. The amount of budget authority required to support TIFIA credit assistance is calculated on a project-by-project basis. Applicants for TIGER II TIFIA Payments should submit an application pursuant to this notice and a separate TIFIA letter of interest, as described below in Section VI (*TIGER II TIFIA Payments*). Unless otherwise noted, or the context requires otherwise, references in this notice to TIGER II Discretionary Grants include TIGER II TIFIA Payments.

DOT reserves the right to offer a TIGER II TIFIA Payment to an applicant that applied for a TIGER II Discretionary Grant even if DOT does not choose to fund the requested TIGER II Discretionary Grant and the applicant did not specifically request a TIGER II TIFIA Payment. Therefore, as described below in Section VI (*TIGER II TIFIA Payments*), applicants for TIGER II Discretionary Grants, particularly applicants that require a substantial amount of funds to complete a financing package, should indicate whether or not they have considered applying for a TIGER II TIFIA Payment. To the extent an applicant thinks that TIFIA may be a viable option for the project, applicants should provide a brief description of a project finance plan that includes TIFIA credit assistance and identifies a source of revenue which may be available to support the TIFIA credit assistance.

The FY 2010 Appropriations Act also permits DOT to use an amount not to exceed $35 million of the available TIGER II funds for the planning, preparation, or design of Eligible Projects ("TIGER II Planning Grants"). TIGER II Planning Grants may be awarded to Eligible Applicants. The Recovery Act did not explicitly provide funding for similar activities under the TIGER Discretionary Grant program.

The FY 2010 Appropriations Act provides that the Secretary of Transportation may retain up to $25 million of the $600 million to fund the award and oversight of TIGER II Discretionary Grants. Portions of the $25 million may be transferred for these purposes to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration, and the Federal Maritime Administration.

The purpose of this notice is to solicit applications for TIGER II Discretionary Grants.

TIGER II Discretionary Grants

II. Selection Criteria and Guidance on Application of Selection Criteria

This section specifies the criteria that DOT will use to evaluate applications for TIGER II Discretionary Grants. The criteria incorporate the statutory eligibility requirements for this program, which are specified in this notice as relevant. This section is divided into two parts. Part A (*Selection Criteria*) specifies the criteria that DOT will use to rate projects. Additional guidance about how DOT will apply these criteria, including illustrative metrics and examples, is provided in Part B (*Additional Guidance on Selection Criteria*).

A. Selection Criteria

TIGER II Discretionary Grants will be awarded based on the selection criteria as outlined below. There are two categories of selection criteria, "Primary Selection Criteria" and "Secondary Selection Criteria."

The Primary Selection Criteria include (1) Long-Term Outcomes and (2) Job Creation & Economic Stimulus. The Secondary Selection Criteria include (1) Innovation and (2) Partnership. The Primary Selection Criteria are intended to capture the primary objective of the TIGER II provisions of the FY 2010 Appropriations Act, which is to invest in infrastructure projects that will have a significant impact on the Nation, a metropolitan area, or a region. The Secondary Selection Criteria are intended to capture the benefits of new and/or innovative approaches to achieving this programmatic objective.

1. Primary Selection Criteria

(a) Long-Term Outcomes

DOT will give priority to projects that have a significant impact on desirable long-term outcomes for the Nation, a metropolitan area, or a region. Applications that do not demonstrate a likelihood of significant long-term benefits in this criterion will not proceed in the evaluation process. The following types of long-term outcomes will be given priority:

(i) *State of Good Repair:* Improving the condition of existing transportation facilities and systems, with particular emphasis on projects that minimize life-cycle costs.

(ii) *Economic Competitiveness:* Contributing to the economic competitiveness of the United States over the medium- to long-term.

(iii) *Livability:* Fostering livable communities through place-based policies and investments that increase transportation choices and access to transportation services for people in communities across the United States.

(iv) *Environmental Sustainability:* Improving energy efficiency, reducing dependence on oil, reducing greenhouse gas emissions and benefitting the environment.

(v) *Safety:* Improving the safety of U.S. transportation facilities and systems.

(b) Job Creation & Economic Stimulus

While the TIGER II Discretionary Grant program is not a Recovery Act program, job creation and economic stimulus remain a top priority of this Administration; therefore, DOT will give priority (as it did for the TIGER Discretionary Grant program) to projects that are expected to quickly create and preserve jobs and stimulate rapid increases in economic activity, particularly jobs and activity that benefit economically distressed areas as defined by section 301 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3161) ("Economically Distressed Areas").[3]

2. Secondary Selection Criteria

(a) Innovation

DOT will give priority to projects that use innovative strategies to pursue the long-term outcomes outlined above.

(b) Partnership

DOT will give priority to projects that demonstrate strong collaboration among a broad range of participants and/or integration of transportation with other public service efforts.

B. Additional Guidance on Selection Criteria

The following additional guidance explains how DOT will evaluate each of the selection criteria identified above in Section II(A) (*Selection Criteria*). Applicants are encouraged to demonstrate the responsiveness of a project to any and all of the selection criteria with the most relevant information that applicants can provide, regardless of whether such information has been specifically requested, or identified, in this notice. Any such information shall be considered part of the application, not supplemental, for purposes of the application size limits specified below in Section IX(D) (*Length of Application*).

1. Primary Selection Criteria

(a) Long-Term Outcomes

In order to measure a project's alignment with this criterion, DOT will assess the public benefits generated by the project, as measured by the extent to which a project produces one or more of the following outcomes:

(i) *State of Good Repair:* In order to determine whether the project will improve the condition of existing transportation facilities or systems, including whether life-cycle costs will be minimized, DOT will assess (i) Whether the project is part of, or consistent with, relevant State, local or regional efforts and plans to maintain transportation facilities or systems in a state of good repair, (ii) whether an important aim of the project is to rehabilitate, reconstruct or upgrade surface transportation assets that, if left unimproved, threaten future transportation network efficiency, mobility of goods or people, or economic growth due to their poor condition, (iii) whether the project is appropriately capitalized up front and uses asset management approaches that optimize its long-term cost structure, and (iv) the extent to which a sustainable source of revenue is available for long-term operations and maintenance of the project. The application should include any quantifiable metrics of the facility or system's current condition and performance and, to the extent possible, projected condition and performance, with an explanation of how the project will improve the facility or system's condition, performance and/or long-term cost structure, including calculations of avoided operations and maintenance costs and associated delays.

(ii) *Economic Competitiveness:* In order to determine whether a project promotes the economic competitiveness of the United States, DOT will assess whether the project will measurably contribute over the long term to growth in the productivity of the American economy. For purposes of aligning a project with this outcome, applicants should provide evidence of how improvements in transportation outcomes (such as time savings and operating cost savings) translate into long-term economic productivity benefits. These long-term economic benefits that are provided by the completed project are different from the near-term economic benefits of construction that are captured in the Job Creation & Economic Stimulus criterion. In weighing long-term economic competitiveness benefits, applicants should describe how the project supports increased long-term efficiency and productivity.

Priority consideration will be given to projects that: (i) Improve long-term efficiency, reliability or cost-competitiveness in the movement of workers or goods, or (ii) make improvements that increase the economic productivity of land, capital or labor at specific locations, particularly Economically Distressed Areas. Applicants may propose other methods of demonstrating a project's contribution to the economic competitiveness of the country and such methods will be reviewed on a case-by-case basis.

Economic competitiveness may be demonstrated by the project's ability to increase the efficiency and effectiveness of the transportation system through integration or better use of all existing transportation infrastructure (which may be evidenced by the project's involvement with or benefits to more than one mode and/or its compatibility with and preferably augmentation of the capacities of connecting modes and facilities), but only to the extent that these enhancements lead to the economic benefits that are identified in the opening paragraph of this section.

For purposes of demonstrating economic benefits, applicants should estimate National-level or region-wide economic benefits on productivity and production, and should net out those benefits most likely to result in transfers of economic activity from one localized area to another. Therefore, in estimating local and regional benefits, applicants should consider net increases in economic productivity and benefits, and should take care not to include economic benefits that are being shifted from one location in the United States to another location. Highly localized benefits will receive the most consideration under circumstances where such benefits are most likely to improve an Economically Distressed Area (as defined herein) or otherwise improve access to more productive employment opportunities for under-employed and disadvantaged populations.

[3] While Economically Distressed Areas are typically identified under the Public Works and Economic Development Act at the county level, for the purposes of this program DOT will consider regions, municipalities, smaller areas within larger communities, or other geographic areas to be Economically Distressed Areas if an applicant can demonstrate that any such area otherwise meets the requirements of an Economically Distressed Area as defined in section 301 of the Public Works and Economic Development Act of 1965.

Finally, the TIGER II program strives to promote long-term economic growth in a manner that will be sustainable for generations to come. Therefore, for projects designed to enhance economic competitiveness, applicants should also provide evidence that the project will achieve the goals of this outcome in an environmentally sustainable manner. To satisfy this condition, applicants should reference the fourth criterion in this Section II(B) "Environmental Sustainability" for more information on what features promote sustainable growth and be sure to address the extent to which sustainability features are incorporated into the proposed project's economic impact.

(iii) *Livability:* Livability investments are projects that not only deliver transportation benefits, but are also designed and planned in such a way that they have a positive impact on qualitative measures of community life. This element of long-term outcomes delivers benefits that are inherently difficult to measure. However, it is implicit to livability that its benefits are shared and therefore magnified by the number of potential users in the affected community. Therefore, descriptions of how projects enhance livability should include a description of the affected community and the scale of the project's impact as measured in person-miles traveled or number of trips affected. In order to determine whether a project improves the quality of the living and working environment of a community, DOT will consider whether the project furthers the six livability principles developed by DOT with HUD and EPA as part of the Partnership for Sustainable Communities, which are listed fully at *http://www.dot.gov/affairs/2009/dot8009.htm.* For this criterion, the Department will give particular consideration to the first principle, which prioritizes the creation of affordable and convenient transportation choices.[4] Specifically, DOT will qualitatively assess whether the project:

(1) Will significantly enhance or reduce the average cost of user mobility through the creation of more convenient transportation options for travelers;

(2) will improve existing transportation choices by enhancing points of modal connectivity, increasing the number of modes accommodated on existing assets, or reducing congestion on existing modal assets;

(3) will improve accessibility and transport services for economically disadvantaged populations, non-drivers, senior citizens, and persons with disabilities, or will make goods, commodities, and services more readily available to these groups; and/or

(4) is the result of a planning process which coordinated transportation and land-use planning decisions and encouraged community participation in the process.

Livability improvements may include projects for new or improved biking and walking infrastructure. Particular attention will be paid to the degree to which such projects contribute significantly to broader traveler mobility through intermodal connections, enhanced job commuting options, or improved connections between residential and commercial areas. Projects that appear designed primarily as isolated recreational facilities and do not enhance traveler mobility as described above will not be funded.

(iv) *Environmental Sustainability:* In order to determine whether a project promotes a more environmentally sustainable transportation system, DOT will assess the project's ability to:

(1) Improve energy efficiency, reduce dependence on oil and/or reduce greenhouse gas emissions; applicants are encouraged to provide quantitative information regarding expected reductions in emissions of CO_2 or fuel consumption as a result of the project, or expected use of clean or alternative sources of energy; projects that demonstrate a projected decrease in the movement of people or goods by less energy-efficient vehicles or systems will be given priority under this factor; and

(2) maintain, protect or enhance the environment, as evidenced by its avoidance of adverse environmental impacts (for example, adverse impacts related to air or water quality, wetlands, and endangered species) and/or by its environmental benefits (for example, improved air quality, wetlands creation or improved habitat connectivity).

Applicants are encouraged to provide quantitative information that validates the existence of substantial transportation-related costs related to energy consumption and adverse environmental effects and evidence of the extent to which the project will reduce or mitigate those costs.

(v) Safety

In order to determine whether the project improves safety, DOT will assess the project's ability to reduce the number, rate and consequences of surface transportation-related crashes, and injuries and fatalities among drivers and/or non-drivers in the United States or in the affected metropolitan area or region, and/or the project's contribution to the elimination of highway/rail grade crossings, the protection of pipelines, or the prevention of unintended release of hazardous materials.

Evaluation of Expected Project Costs and Benefits: DOT believes that benefit-cost analysis ("BCA"), including the monetization and discounting of costs and benefits in a common unit of measurement in present-day dollars, is an important discipline. For BCA to yield useful results, full consideration of costs and benefits is necessary. These include traditionally quantified fuel and travel time savings as well as reductions in greenhouse gas emissions, water quality impacts, public health effects, and other costs and benefits that are more indirectly related to vehicle-miles or that are harder to measure. In addition, BCA should attempt to measure the indirect effects of transportation investments on land use and on the portions of household budgets spent on transportation. The systematic process of comparing expected benefits and costs helps decision-makers organize information about, and evaluate trade-offs between, alternative transportation investments. DOT has a responsibility under Executive Order 12893, Principles for Federal Infrastructure Investments, 59 FR 4233, to base infrastructure investments on systematic analysis of expected benefits and costs, including both quantitative and qualitative measures.

Therefore, applicants for TIGER II Discretionary Grants are generally required to identify, quantify, and compare expected benefits and costs, subject to the following qualifications:

All applicants will be expected to prepare an analysis of benefits and costs; however, DOT understands that the level of expense that can be expected in these analyses for surveys, travel demand forecasts, market forecasts, statistical analyses, and so on will be less for smaller projects than for larger projects. Smaller projects will therefore be given greater latitude to estimate benefits subjectively. However, even smaller projects will be expected to quantify these subjective estimates of benefits and costs, and to provide whatever evidence they have available to lend credence to their subjective estimates. Estimates of benefits should be presented in monetary terms whenever possible; if a monetary estimate is not possible, then at least a

[4] In full, this principle reads: "Provide more transportation choices. Develop safe, reliable and economical transportation choices to decrease household transportation costs, reduce our nation's dependence on foreign oil, improve air quality, reduce greenhouse gas emissions and promote public health."

quantitative estimate (in physical, non-monetary terms, such as ridership estimates, emissions levels, etc.) should be provided.

The requirement to conduct an economic analysis is not applicable to applicants seeking TIGER II Planning Grants; however, such applicants should describe the expected benefits of the underlying project(s) that the planning activities will help advance.

The lack of a useful analysis of expected project benefits and costs may be the basis for denying an award of a TIGER II Discretionary Grant to an applicant. If it is clear to DOT that the total benefits of a project are not reasonably likely to outweigh the project's costs, DOT will not award a TIGER II Discretionary Grant to the project. Consistent with the broader goals of DOT and the FY 2010 Appropriations Act, DOT can consider some factors that do not readily lend themselves to quantification or monetization, including equitable geographic distribution of grant funds and an appropriate balance in addressing the needs of urban and rural areas and investment in a variety of transportation modes.

Detailed guidance for the preparation of benefit-cost analyses is provided in *Appendix A.* Benefits should be presented, whenever possible, in a tabular form showing benefits and costs in each year for the useful life of the project. Benefits and costs should both be discounted to the year 2010 and present discounted values of both the stream of benefits and the stream of costs should be calculated. If the project has multiple parts, each of which has independent utility, the benefits and costs of each part should be estimated and presented separately. A project component has independent utility if the component itself is an Eligible Project and provides benefits that satisfy the selection criteria specified in this notice, as described further in Section III(B) *(Evaluation of Eligibility)* below. The benefit-cost analysis should be summarized in the text of the application itself, but the details may be presented in an attachment to the application.

DOT recognizes that some categories of costs and benefits are more difficult to quantify or monetize than others. In presenting benefit-cost analyses, applicants should include qualitative discussion of the categories of benefits and costs that they were not able to quantify, noting that these benefits and costs are in addition to other benefits and costs that were quantified. However, in the event of an unreasonable absence of data and analysis, or poor applicant effort to put forth a robust quantification of benefits and costs, the application is unlikely to receive further consideration. In general, the lack of a useful analysis comparing benefits and costs for any such project is ground for denying the award of a TIGER II Discretionary Grant.

Evaluation of Project Performance: Each project selected for TIGER II Discretionary Grant funding will be required to work with DOT on the development and implementation of a plan to collect information and report on the project's performance with respect to the relevant long-term outcomes that are expected to be achieved through construction of the project.

(b) Job Creation & Economic Stimulus

In order to measure a project's alignment with this criterion, DOT will assess whether the project promotes the short- or long-term creation or preservation of jobs and whether the project rapidly promotes new or expanded business opportunities during construction of the project or thereafter. Demonstration of a project's rapid economic impact is critical to a project's alignment with this criterion. Applicants are encouraged to provide information to assist DOT in making these assessments, including the total amount of funds that will be expended on construction and construction-related activities by all of the entities participating in the project and, to the extent measurable, the number and type of jobs to be created and/or preserved by the project by calendar quarters during construction and annually thereafter. Applicants should also identify any business enterprises to be created or benefited by the project during its construction and once it becomes operational.[5]

Consistent with the Recovery Act, the Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009 issued by the Office of Management and Budget ("OMB") on April 3, 2009 (the "OMB Guidance"), and consistent with applicable Federal laws, applicants are encouraged to provide information to assist DOT in assessing (1) Whether the project will promote the creation of job opportunities for low-income workers through the use of best practice hiring programs and utilization of apprenticeship (including pre-apprenticeship) programs; (2) whether the project will provide maximum practicable opportunities for small businesses and disadvantaged business enterprises, including veteran-owned small businesses and service disabled veteran-owned small businesses; (3) whether the project will make effective use of community-based organizations in connecting disadvantaged workers with economic opportunities; (4) whether the project will support entities that have a sound track record on labor practices and compliance with Federal laws ensuring that American workers are safe and treated fairly; and (5) whether the project implements best practices, consistent with our Nation's civil rights and equal opportunity laws, for ensuring that all individuals—regardless of race, gender, age, disability, and national origin—benefit from TIGER II grant funding.

To the extent possible, applicants should indicate whether the populations most likely to benefit from the creation or preservation of jobs or new or expanded business opportunities are from Economically Distressed Areas. In addition, to the extent possible, applicants should indicate whether the project's procurement plan is likely to create follow-on jobs and economic stimulus for manufacturers and suppliers that support the construction industry. A key consideration in assessing projects under this criterion will be how quickly jobs are created.

In evaluating a project's alignment with this criterion, DOT will assess whether a project is ready to proceed rapidly upon receipt of a TIGER II Discretionary Grant, as evidenced by:

[5] The Executive Office of the President, Council of Economic Advisers, issued a memorandum in May 2009 on "Estimates of Job Creation from the American Recovery and Reinvestment Act of 2009." The memorandum is available at: *http://www.whitehouse.gov/administration/eop/cea/Estimate-of-Job-Creation/*. Table 5 of this memorandum provides a simple rule for estimating job-years created by government spending, which is that $92,000 of government spending creates one job-year. Of this, 64% of the job-year estimate represents direct and indirect effects and 36% of the job-year estimate represents induced effects. Applicants can use this estimate as an appropriate indicator of direct, indirect and induced job-years created by TIGER II Discretionary Grant spending, but are encouraged to supplement or modify this estimate to the extent they can demonstrate that such modifications are justified. However, since the May 2009 memorandum makes job creation purely a function of the level of expenditure, applicants should also demonstrate how quickly jobs will be created under the proposed project. Projects that generate a given number of jobs more quickly will have a more favorable impact on economic recovery. A quarter-by-quarter projection of the number of direct job-hours expected to be created by the project is useful in assessing the impacts of a project on economic recovery. Furthermore, applicants should be aware that certain types of expenditures are less likely to align well with the Job Creation & Economic Stimulus criterion. These types of expenditures include, among other things, engineering or design work and purchasing existing facilities or right-of-way.

(i) *Project Schedule:* A feasible and sufficiently detailed project schedule demonstrating that the project can begin construction quickly upon receipt of a TIGER II Discretionary Grant and that the grant funds will be spent steadily and expeditiously once construction starts; the schedule should show how many direct, on-project jobs are expected to be created or sustained during each calendar quarter after the project is underway;

(ii) *Environmental Approvals:* Receipt (or reasonably anticipated receipt) of all environmental approvals necessary for the project to proceed to construction on the timeline specified in the project schedule, including satisfaction of all Federal, State and local requirements and completion of the National Environmental Policy Act ("NEPA") process;

To demonstrate satisfaction of this requirement, applicants should provide assurances with their pre-applications that NEPA review is complete or substantially complete and submit relevant draft or final NEPA documentation—preferably by way of a Web site link—for DOT review. DOT is unlikely to select a project for TIGER II Discretionary Grant funding if it involves significant environmental impacts and has not substantially completed required environmental and regulatory reviews.

DOT will consider exceptions to the requirement that NEPA be substantially complete upon application on a case-by-case basis. An applicant must provide a reasonable justification for why NEPA review was not initiated with a Federal agency prior to the date of this notice, and an assurance that the necessary environmental reviews can be completed at least 90 days in advance of the September 30, 2012, deadline for obligation of TIGER II Discretionary Grant funds. An example of a reasonable justification for why an applicant has not initiated NEPA review would be if, prior to the availability of TIGER II Discretionary Grant funds, there was no reasonable expectation of receiving Federal funding for the project. A project may be selected for award but will not receive award grant monies until NEPA is complete and all other necessary environmental approvals have been received.

An applicant seeking to justify an exception to this requirement should submit the information listed below with its application:

a. The information required under Sections VIII(C)(2)(V) and VIII(F)–(G) (*Contents of Applications*) of this notice;

b. Environmental studies or other documents—preferably by way of a Web site link—that describe in detail known potential project impacts, and possible mitigation for those impacts;

c. A description of completed, or planned and anticipated coordination with Federal and State regulatory agencies for permits and approvals;

d. An estimate of the time required for completion of NEPA and all other required Federal, State or local environmental approvals; and

e. An identification of the proposed NEPA class of action (i.e., Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement).

(iii) *Legislative Approvals:* Receipt of all necessary legislative approvals (for example, legislative authority to charge user fees or set toll rates), and evidence of support from State and local elected officials; evidence of support from all relevant State and local officials is not required, however, the evidence should demonstrate that the project is broadly supported;

(iv) *State and Local Planning:* The inclusion of the project in the relevant State, metropolitan, and local planning documents, or a certification from the appropriate agency that the project will be included in the relevant planning document prior to award of a TIGER II Discretionary Grant [6]; any MPO that is applying for a TIGER II Discretionary Grant should provide evidence that the owner of the project supports the application and will cooperate in carrying out the activities to be supported by the TIGER II Discretionary Grant;

(v) *Technical Feasibility:* The technical feasibility of the project, including completion of substantial preliminary engineering work; and

(vi) *Financial Feasibility:* The viability and completeness of the project's financing package (assuming the availability of the requested TIGER II Discretionary Grant funds), including evidence of stable and reliable financial commitments and contingency reserves, as appropriate, and evidence of the grant recipient's ability to manage grants.

DOT reserves the right to revoke any award of TIGER II Discretionary Grant funds and to award such funds to another project to the extent that such funds are not timely expended and/or construction does not begin in accordance with the project schedule. Because projects have different schedules DOT will consider on a case-by-case basis how much time after selection for award of a TIGER II Discretionary Grant each project has before funds must be obligated (consistent with law) and construction started. This deadline will be specified for each TIGER II Discretionary Grant in the project-specific grant agreements signed by the grant recipients and will be based on critical path items identified by applicants in response to items (i) through (vi) above. For example, if an applicant reasonably anticipates that NEPA requirements will be completed and final documentation received within 30 to 60 days of award of a TIGER II Discretionary Grant, this timeframe will be taken into account in evaluating the application, but also in establishing a deadline for obligation of funds and commencement of construction. DOT's ability to obligate funds for TIGER II Discretionary Grants expires on September 30, 2012.

2. Secondary Selection Criteria

(a) Innovation

In order to measure a project's alignment with this criterion, DOT will assess the extent to which the project uses innovative technology (including, for example, intelligent transportation systems, dynamic pricing, rail wayside or on-board energy recovery, smart cards, real-time dispatching, active traffic management, radio frequency identification (RFID), or others) to pursue one or more of the long-term outcomes outlined above and/or to significantly enhance the operational performance of the transportation system. DOT will also assess the extent to which the project incorporates innovations that demonstrate the value of new approaches to, among other things, transportation funding and finance, contracting, project delivery, congestion management, safety management, asset management, or long-term operations and maintenance. The applicant should clearly

[6] All regionally significant projects requiring an action by the FHWA or the FTA must be in the metropolitan transportation plan, TIP and STIP. Further, in air quality non-attainment and maintenance areas, all regionally significant projects, regardless of the funding source, must be included in the conforming metropolitan transportation plan and TIP. To the extent a project is required to be on a metropolitan transportation plan, TIP and/or STIP it will not receive a TIGER II Discretionary Grant until it is included in such plans. Projects not currently included in these plans can be amended in by the State and MPO. Projects that are not required to be in long range transportation plans, STIPs and TIPs will not need to be included in such plans in order to receive a TIGER II Discretionary Grant. Freight and passenger rail projects are not required to be on the State Rail Plans called for in the Passenger Rail Investment and Improvement Act of 2008. This is consistent with the exemption for high speed and intercity passenger rail projects under the Recovery Act. However, applicants seeking funding for freight and passenger rail projects are encouraged to demonstrate that they have done sufficient planning to ensure that projects fit into a prioritized list of capital needs and are consistent with long-range goals.

demonstrate that the innovation is designed to pursue one or more of the long-term outcomes outlined above and/or significantly enhance the transportation system.

Innovative, multi-modal projects are often difficult to fund under traditional transportation programs. DOT will consider the extent to which innovative projects might be difficult to fund under other programs and will give priority to projects that align well with the Primary Selection Criteria but are unlikely to receive funding under traditional programs.

(b) Partnership

(i) *Jurisdictional & Stakeholder Collaboration:* In order to measure a project's alignment with this criterion, DOT will assess the project's involvement of non-Federal entities and the use of non-Federal funds, including the scope of involvement and share of total funding. DOT will give priority to projects that receive financial commitments from, or otherwise involve, State and local governments, other public entities, or private or nonprofit entities, including projects that engage parties that are not traditionally involved in transportation projects, such as nonprofit community groups. Pursuant to the OMB Guidance, DOT will give priority to projects that make effective use of community-based organizations in connecting disadvantaged people with economic opportunities.

In compliance with the FY 2010 Appropriations Act, DOT will give priority to projects for which a TIGER II Discretionary Grant will help to complete an overall financing package. An applicant should clearly demonstrate the extent to which the project cannot be readily and efficiently completed without Federal assistance, and the extent to which other sources of Federal assistance are or are not readily available for the project. DOT will assess the amount of private debt and equity to be invested in the project or the amount of co-investment from State, local or other non-profit sources.

DOT will also assess the extent to which the project demonstrates collaboration among neighboring or regional jurisdictions to achieve National, regional or metropolitan benefits. Multiple States or jurisdictions may submit a joint application and should identify a lead State or jurisdiction as the primary point of contact. Where multiple States or jurisdictions are submitting a joint application, the application should demonstrate how the project costs are apportioned between the States or jurisdictions to assist DOT in making the distributional determinations described below in Section III(C) (*Distribution of Funds*).

(ii) *Disciplinary Integration:* In order to demonstrate the value of partnerships across government agencies that serve various public service missions and to promote collaboration on the objectives outlined in this notice, DOT will give priority to projects that are supported, financially or otherwise, by non-transportation public agencies that are pursuing similar objectives. For example, DOT will give priority to transportation projects that create more livable communities and are supported by relevant public housing agencies or are consistent with State or local efforts or plans to promote economic development, revitalize communities, or protect historic or cultural assets; similarly, DOT will give priority to transportation projects that encourage energy efficiency or improve the environment and are supported by relevant public agencies with energy or environmental missions.

III. Evaluation and Selection Process

A. Evaluation Process

TIGER II Discretionary Grant applications will be evaluated in accordance with the below discussed evaluation process. DOT will establish a pre-application evaluation team to review each pre-application that is received by DOT on or prior to the Pre-Application Deadline. This evaluation team will be organized and led by the Office of the Secretary and will include members from the relevant modal administrations in DOT with the most experience and/or expertise in the relevant project areas (the "Cognizant Modal Administrations"). These representatives will include technical and professional staff with relevant experience and/or expertise. This evaluation team will be responsible for analyzing whether the pre-application satisfies the following key threshold requirements:

1. The project is an Eligible Project or a DOT Eligible Planning Activity;

2. NEPA is substantially complete, as described above in Section II(B)(2)(b)(ii) *(Environmental Approvals);* and

3. Local matching funds to support 20 percent or more of the costs for the project are identified and committed; this requirement is not applicable to projects located in rural areas, however, applications for projects in rural areas will be more competitive to the extent they include non-Federal financial contributions.

To the extent the pre-application evaluation team determines that a pre-application does not satisfy these key threshold requirements, DOT will inform the project sponsor that an application for the project will not be reviewed unless the application submitted on or prior to the Application Deadline can demonstrate that the requirement has been addressed.

DOT will establish application evaluation teams to review each application that is received by DOT prior to the Application Deadline. These evaluation teams will be organized and led by the Office of the Secretary and will include members from each of the Cognizant Modal Administrations. These representatives will include technical and professional staff with relevant experience and/or expertise. The evaluation teams will be responsible for evaluating and rating all of the projects and making funding recommendations to the Secretary. The evaluation process will require team members to evaluate and rate applications individually before convening with other members to discuss ratings. The composition of the evaluation teams will be finalized after the Pre-Application Deadline, based on the number and nature of pre-applications received.

DOT will not assign specific numerical scores to projects based on the selection criteria outlined above in Section II(A) (*Selection Criteria*). Rather, ratings of "highly recommended," "recommended," "not recommended", or "negative" will be assigned to projects for each of the selection criteria. DOT will award TIGER II Discretionary Grants to projects that are well-aligned with one or more of the selection criteria, with projects that are well-aligned with multiple selection criteria being more likely to receive TIGER II Discretionary Grants. In addition, DOT will consider whether a project has a negative effect on any of the selection criteria, and any such negative effect may reduce the likelihood that the project will receive a TIGER II Discretionary Grant. To the extent the initial evaluation process does not sufficiently differentiate among highly rated projects, DOT will use a similar rating process to re-assess the projects that were highly rated and identify those that should be most highly rated.

DOT will give more weight to the two Primary Selection Criteria (*Long-Term Outcomes* and *Job Creation & Economic Stimulus*), which will be rated equally, than to the two Secondary Selection Criteria (*Innovation* and *Partnership*). Projects that are unable to demonstrate a likelihood of significant long-term

benefits in any of the five long-term outcomes identified in Section II(A)(1)(a) (*Long-Term Outcomes*) will not proceed in the evaluation process. A project need not be well aligned with each of the long-term outcomes in order to be successful in the long-term outcomes criterion overall. However, projects that are strongly aligned with multiple long-term outcomes will be the most successful in this criterion. Furthermore, a project that has a negative effect on safety or environmental sustainability will need to demonstrate significant merits in other long-term outcomes in order to be selected for funding.

For the Job Creation & Economic Stimulus criterion, projects need not receive a rating of "highly recommended" in order to be recommended for funding, although a project that is not ready to proceed quickly, as evidenced by the items requested in Section II(B)(1)(b)(i)–(vi) (*Project Schedule, Environmental Approvals, Legislative Approvals, State and Local Planning, Technical Feasibility,* and *Financial Feasibility*), is less likely to be successful in this criterion.

DOT will give less weight to the two Secondary Selection Criteria (*Innovation* and *Partnership*) than to the two Primary Selection Criteria (*Long-Term Outcomes* and *Job Creation & Economic Stimulus*). The two Secondary Selection Criteria will be rated equally.

The following table summarizes the weighting of the selection criteria, as described in the preceding paragraphs:

Long-Term Outcomes	DOT will give more weight to this criterion than to either of the Secondary Selection Criteria. In addition, this criterion has a minimum threshold requirement. Projects that are unable to demonstrate a likelihood of significant long-term benefits in any of the five long-term outcomes identified in this criterion will not proceed in the evaluation process.
Job Creation & Economic Stimulus	DOT will give more weight to this criterion than to either of the Secondary Selection Criteria. This criterion will be considered after it is determined that a project demonstrates a likelihood of significant long-term benefits in at least one of the five long-term outcomes identified in the long-term outcomes criterion.
Innovation & Partnership	DOT will give less weight to these criteria than to the Primary Selection Criteria. These criteria will be rated equally.

As noted below in Section III(C) *(Distribution of Funds),* upon completion of this competitive rating process DOT will analyze the preliminary list and determine whether the purely competitive ratings are consistent with the distributional requirements of the FY 2010 Appropriations Act. If necessary, DOT will adjust the list of recommended projects to satisfy the statutory distributional requirements while remaining as consistent as possible with the competitive ratings.

B. Evaluation of Eligibility

To be selected for a TIGER II Discretionary Grant, a project must be an Eligible Project and the applicant must be an Eligible Applicant. DOT may consider one or more components of a large project to be an Eligible Project, but only to the extent that the components have independent utility, meaning the components themselves, not the project of which they are a part, are Eligible Projects and satisfy the selection criteria identified above in Section II(A) (*Selection Criteria*). For these projects, the benefits described in an application must be related to the components of the project for which funding is requested, not the full project of which they are a part. DOT will not fund individual phases of a project if the benefits of completing only these phases would not align well with the selection criteria specified in the Notice because the overall project would still be incomplete.

To the extent an applicant requests a substantial amount of grant funds for a larger project or a group of related projects, DOT reserves the right to award funds for a part of the project, not the full project, if a part of the project has independent utility and aligns well with the selection criteria specified in this notice. To the extent applicants expect that DOT may wish to consider funding one or more parts of a project and not the full project that is the subject of the application, then applicants should clearly identify in their applications the separate parts of the project and the benefits that each part of the project provides, and how these benefits align with the selection criteria. Similarly, if a project is not viable unless DOT funds the full project, this should be stated in the application.

C. Distribution of Funds

As noted above in Section I (*Background*), the FY 2010 Appropriations Act prohibits the award of more than 25 percent of the funds made available under the TIGER II program to projects in any one State. The FY 2010 Appropriations Act also requires that DOT take measures to ensure an equitable geographic distribution of funds, an appropriate balance in addressing the needs of urban and rural areas, and the investment in a variety of transportation modes. DOT will apply an initial unconstrained competitive rating process based on the selection criteria identified above in Section II(A) (*Selection Criteria*) to determine a preliminary list of projects recommended for TIGER II Discretionary Grants. DOT will then analyze the preliminary list and determine whether the purely competitive ratings are consistent with the distributional requirements of the FY 2010 Appropriations Act. If necessary, DOT will adjust the list of recommended projects to satisfy the statutory distributional requirements while remaining as consistent as possible with the competitive ratings.

As noted above in Section II(B)(2)(b)(i) (*Jurisdictional & Stakeholder Collaboration*), applications submitted jointly by multiple States should include an allocation of project costs to assist DOT in making these determinations. In addition, DOT will use the subsidy and administrative cost estimate, not the principal amount of credit assistance, to determine any TIGER II TIFIA Payment's effect on these distributional requirements.

D. Transparency of Process

In the interest of transparency, DOT will disclose as much of the information related to its evaluation process as is practical and consistent with law. DOT expects that the TIGER II Discretionary Grant program may be reviewed and/or audited by Congress, the U.S. Government Accountability Office, DOT's Inspector General, or others, and has and will continue to take steps to document its decision-making process.

IV. Grant Administration

DOT expects that each TIGER II Discretionary Grant will be administered by one of the Cognizant Modal Administration, pursuant to a grant agreement between the TIGER II

Discretionary Grant recipient and the Cognizant Modal Administration. In accordance with the FY 2010 Appropriations Act, the Secretary has the discretion to delegate such responsibilities.

Applicable Federal laws, rules and regulations will apply to projects that receive TIGER II Discretionary Grants.

As noted above in Section II(B)(1)(b) (*Job Creation & Economic Stimulus*), how soon after selection for award a project is expected to obligate grant funds and start construction will be considered on a case-by-case basis and will be specified in the project-specific grant agreements. DOT reserves the right to revoke any award of TIGER II Discretionary Grant funds and to award such funds to another project to the extent that such funds are not timely expended and/or construction does not begin in accordance with the project schedule. DOT's ability to obligate funds for TIGER II Discretionary Grants expires on September 30, 2012.

V. Projects in Rural Areas

The FY 2010 Appropriations Act directs that not less than $140 million of the funds provided for TIGER II Discretionary Grants are to be used for projects in rural areas. For purposes of this notice, DOT is generally defining "rural area" as any area not in an Urbanized Area, as such term is defined by the Census Bureau,[7] and will consider a project to be in a rural area if all or the majority of a project is located in a rural area. To the extent more than a *de minimis* portion of a project is located in an Urbanized Area, applicants should identify the estimated percentage of project costs that will be spent in Urbanized Areas and the estimated percentage that will be spent in rural areas.

For projects located in rural areas the FY 2010 Appropriation Act does not require matching funds (although the statute does direct DOT to give priority to projects, including projects located in rural areas, for which Federal funding is required to complete an overall financing package that includes non-Federal sources of funds) and the minimum grant size is $1 million. Applicants for TIGER II Discretionary Grants of between $1 million and $10 million for projects located in rural areas are encouraged to apply and should address the same criteria as applicants for TIGER II Discretionary Grants in excess of $10 million.

VI. TIGER II TIFIA Payments

Up to $150 million of the $600 million available for TIGER II Discretionary Grants may be used for TIGER II TIFIA Payments. Based on the average subsidy cost of the existing TIFIA portfolio, $150 million in TIGER II TIFIA Payments could support approximately $1.5 billion in Federal credit assistance.

Applicants seeking TIGER II TIFIA Payments should apply in accordance with all of the criteria and guidance specified in this notice for TIGER II Discretionary Grant applications and will be evaluated concurrently with all other applicants. Any applicant seeking a TIGER II TIFIA Payment is also required to submit a TIFIA letter of interest concurrent with the TIGER II TIFIA Payment application. If selected for a TIGER II TIFIA Payment, the applicant must comply with all of the TIFIA program's standard application and approval requirements including submission of a complete TIFIA application and $50,000 application fee (the TIFIA program guide can be downloaded from *http://tifia.fhwa.dot.gov/*).

Applicants should demonstrate that they are ready to proceed rapidly upon receipt of a TIGER II TIFIA Payment in accordance with the guidance specified above in Section II(B)(1)(b) (*Job Creation & Economic Stimulus*). DOT's TIFIA Joint Program Office will assist DOT in determining a project's readiness to proceed rapidly upon receipt of a TIGER II TIFIA Payment.

Applicants seeking TIGER II TIFIA Payments may also apply for a TIGER II Discretionary Grant for the same project and must indicate the type(s) of funding for which they are applying clearly on the face of their applications. An applicant for a TIGER II TIFIA Payment must submit an application pursuant to this notice for a TIGER II TIFIA Payment even if it does not wish to apply for a TIGER II Discretionary Grant.

DOT reserves the right to offer a TIGER II TIFIA Payment to an applicant that applied for a TIGER II Discretionary Grant even if DOT does not choose to fund the requested TIGER II Discretionary Grant request and the applicant did not request a TIGER II TIFIA Payment. Therefore, applicants for TIGER II Discretionary Grants, particularly applicants that require a substantial amount of funds to complete a financing package, should indicate whether or not they have considered applying for a TIGER II TIFIA Payment. To the extent an applicant thinks that TIFIA may be a viable option for the project, applicants should provide a brief description of a project finance plan that includes TIFIA credit assistance and identifies a source of revenue which may be available to support the TIFIA credit assistance.

Unless otherwise expressly noted herein, any and all requirements that apply to TIGER II Discretionary Grants pursuant to the FY 2010 Appropriations Act, this notice, or otherwise, apply to TIGER II TIFIA Payments. TIFIA applicants that do not receive TIGER II TIFIA Payments will not be required to comply with any of these requirements.

VII. TIGER II Planning Grants

The FY 2010 Appropriations Act permits DOT to use up to $35 million of the amount available for TIGER II Discretionary Grants for TIGER II Planning Grants.

As noted above in the **SUPPLEMENTARY INFORMATION** section, DOT plans to conduct a multi-agency evaluation and award process with HUD for DOT's TIGER II Planning Grants and HUD's Community Challenge Planning Grants, which were also authorized under the FY 2010 Appropriations Act. This approach is consistent with DOT and HUD's participation in the "Partnership for Sustainable Communities" with EPA to help American families in all communities—rural, suburban and urban—gain better access to affordable housing, more transportation options, lower transportation costs, and a cleaner environment. The details of this multi-agency planning grant program, including information about eligibility, selection criteria, and pre-application and application requirements, are described in a joint notice of funding availability to be published in the **Federal Register** by DOT and HUD. The joint notice will be published shortly after this notice and signed by the Secretaries of each agency. Interested parties are encouraged to review the joint notice for more information.

TIGER II Planning Grants may be awarded, like TIGER II Discretionary Grants, to Eligible Applicants, and may be used for activities related to the planning, preparation or design of Eligible Projects, including transportation corridors or regional transportation systems ("DOT Eligible Planning Activities").

Applicants need not divide requests for planning and capital funding for the same projects and submit two applications, one under this notice and one under the joint notice with HUD. Applicants may request planning funds as part of an application for capital funds under this notice, if the request

[7] For Census 2000, the Census Bureau defined an Urbanized Area (UA) as an area that consists of densely settled territory that contains 50,000 or more people. Updated lists of UAs are available on the Census Bureau Web site. Urban Clusters (UCs) will be considered rural areas for purposes of the TIGER II Discretionary Grant program.

for planning and capital funding is for the same project. Such an application would be reviewed and administered subject to the information and requirements provided in this notice.

DOT reserves the right to offer a TIGER II Planning Grant to an applicant that applied for a TIGER II Discretionary Grant even if DOT does not choose to fund the requested TIGER II Discretionary Grant request and the applicant did not request a TIGER II Planning Grant.

Pre-Application and Application Cycle

VIII. Pre-Application and Application Cycle

A. Two Stages of Application Cycle

The application cycle for TIGER II Discretionary Grants has two stages:

1. *Pre-Application:* In Stage 1, applicants must submit a pre-application form to the DOT. This step qualifies applicants to submit an application in Stage 2. No application submitted during Stage 2 that does not correlate with a properly completed Stage 1 pre-application will be considered.

2. *Application:* In Stage 2, applicants must submit a complete application package through Grants.gov.

Pre-applications must be submitted to DOT by the Pre-Application Deadline, which is July 16, 2010, at 5 p.m. EST. Final applications must be submitted through Grants.gov by the Application Deadline, which is August 23, 2010, at 5 p.m. EST. The Grants.gov "Apply" function will open on July 30, 2010, allowing applicants to submit applications. While applicants are encouraged to submit pre-applications in advance of the Pre-Application Deadline, pre-applications will not be reviewed until after the Pre-Application Deadline. Similarly, while applicants are encouraged to submit applications in advance of the Application Deadline, applications will not be evaluated, and selections for awards will not be made, until after the Application Deadline.

Pre-applications (stage 1) must be submitted to the DOT. The pre-application form will be available on the DOT Web site at *http://www.dot.gov/recovery/ost/TIGERII* on June 23, 2010, together with instructions for submitting the pre-application form electronically to DOT.

Applications (Stage 2) must be submitted through Grants.gov. To apply for funding through Grants.gov, applicants must be properly registered. Complete instructions on how to register and submit applications can be found at *http://www.grants.gov.* Please be aware that the registration process usually takes 2–4 weeks and must be completed before an application can be submitted. If interested parties experience difficulties at any point during the registration or application process, please call the Grants.gov Customer Support Hotline at 1–800–518–4726, Monday–Friday from 7 a.m. to 9 p.m. EST. Additional information on applying through Grants.gov is available in *Appendix B,* attached hereto.

B. Contents of Pre-Applications

An applicant for a TIGER II Discretionary Grant should provide all of the information requested below in its pre-application form. DOT reserves the right to ask any applicant to supplement the data in its pre-application, but expects pre-applications to be complete upon submission. Applicants must complete the pre-application form and send it to DOT electronically on or prior to the Pre-Application Deadline, in accordance with the instructions specified at *http://www.dot.gov/recovery/ost/TIGERII.* The pre-application form must include the following information:

i. Name of applicant (if the application is to be submitted by more than one entity, a lead applicant must be identified);

ii. Applicant's DUNS (Data Universal Numbering System) number;

iii. Type of applicant (State government, local government, U.S. territory, Tribal government, transit agency, port authority, metropolitan planning organization, or other unit of government);

iv. State(s) where the project is located;

v. County(s) where the project is located;

vi. City(s) where the project is located;

vii. Project title (descriptive);

viii. Project type: highway, transit, rail, port, multimodal, bicycle and pedestrian, or planning activity (if the project is a multimodal project, the pre-application form will require that applicants provide additional information identifying the affected modes);

ix. Whether the project is requesting a TIGER II TIFIA Payment;

x. Project description (describe the project in plain English terms that would be generally understood by the public, using no more than 50 words (e.g. "the project will replace the existing bridge over the W river on interstate-X between the cities of Y and Z" or "the TIGER II Planning Grant will fund planning activities for streetcar service from location X to location Y"; please do not describe the project's benefits, background, or alignment with the selection criteria in this description);

xi. Total cost of the project;

xii. Total amount of TIGER II Discretionary Grant funds requested;

xiii. Contact name, phone number, e-mail address, and physical address for applicant;

xiv. Congressional districts affected by the project;

xv. Type of jurisdiction where the project is located (urban or rural, as defined above in Section V (*Projects in Rural Areas*));

xvi. Whether or not the project is in an Economically Distressed Area, as defined in Section II(A) (*Selection Criteria*);

xvii. An assurance that the NEPA process is complete or substantially complete, unless an exception is justified pursuant to Section II(B)(1)(b)(ii) (*Environmental Approvals*); absent an acceptable justification, DOT will not evaluate applications for projects that have not made substantial progress in the environmental review process, including all Federal, State, and local environmental requirements, by the Pre-Application Deadline; applicants for TIGER II Planning Grants do not need to demonstrate that the NEPA process has been initiated; and

xviii. An assurance that local matching funds to support 20 percent or more of the costs of the project are identified and committed (as noted in Section I (*Background*), this requirement is waived for projects located in rural areas (as defined above in Section V (*Projects in Rural Areas*)), and these projects do not need to provide this assurance).

To the extent the pre-application does not provide adequate assurances for items xvii or xviii, DOT will inform the project sponsor that an application for the project will not be reviewed unless the application submitted on or prior to the Application Deadline can demonstrate that the requirement has been addressed.

C. Contents of Applications

An applicant for a TIGER II Discretionary Grant should include all of the information requested below in its application. DOT reserves the right to ask any applicant to supplement the data in its application, but expects applications to be complete upon submission. To the extent practical, DOT encourages applicants to provide data and evidence of project merits in a form that is publicly available or verifiable. For TIGER II TIFIA Payments,

these requirements apply only to the applications required under this notice; the standard TIFIA letter of interest and loan application requirements, including the standard $30,000.00 application fee, are separately described in the Program Guide and Application Form found at *http://tifia.fhwa.dot.gov/.*

1. Standard Form 424, Application for Federal Assistance

Please see *http://www07.grants.gov/assets/SF424Instructions.pdf* for instructions on how to complete the SF–424, which is part of the standard Grants.gov submission. Additional clarifying guidance and FAQs to assist applicants in completing the SF–424 will be available at *http://www.dot.gov/recovery/ost/TIGERII* by July 30, 2010, when the "Apply" function within Grants.gov opens to accept applications under this notice.

2. Project Narrative (Attachment to SF 424)

The project narrative must respond to the application requirements outlined below. DOT recommends that the project narrative be prepared with standard formatting preferences (e.g. a single-spaced document, using a standard 12-point font, such as Times New Roman, with 1-inch margins).

A TIGER II Discretionary Grant application must include information required for DOT to assess each of the criteria specified in Section II(A) (*Selection Criteria*), as such criteria are explained in Section II(B) (*Additional Guidance on Selection Criteria*). Applicants are encouraged to demonstrate the responsiveness of a project to any and all of the selection criteria with the most relevant information that applicants can provide, regardless of whether such information has been specifically requested, or identified, in this notice. Any such information shall be considered part of the application, not supplemental, for purposes of the application size limits identified below in Part D (*Length of Applications*). Information provided pursuant to this paragraph must be quantified, to the extent possible, to describe the project's impacts on the Nation, a metropolitan area, or a region. Information provided pursuant to this paragraph should include projections for both the build and no-build scenarios for the project for a point in time at least 20 years beyond the project's completion date or the lifespan of the project, whichever is closest to the present.

All applications should include a detailed description of the proposed project and geospatial data for the project, including a map of the project's location and its connections to existing transportation infrastructure. An application should also include a description of how the project addresses the needs of an urban and/or rural area. An application should clearly describe the transportation challenges that the project aims to address, and how the project will address these challenges. The description should include relevant data such as, for example, passenger or freight volumes, congestion levels, infrastructure condition, or safety experience.

DOT recommends that the project narrative generally adhere to the following basic outline, and include a table of contents, maps and graphics that make the information easier to review:

I. Project Description (including a description of the transportation challenges that the project aims to address, and how the project will address these challenges);

II. Project Parties (information about the grant recipient and other project parties);

III. Grant Funds and Sources/Uses of Project Funds (information about the amount of grant funding requested, availability/commitment of funds sources and uses of all project funds, total project costs, percentage of project costs that would be paid for with TIGER II Discretionary Grant funds, and the identity and percentage shares of all parties providing funds for the project (including Federal funds provided under other programs));

IV. Selection Criteria (information about how the project aligns with each of the primary and secondary selection criteria and a description of the results of the benefit-cost analysis):

a. Long-Term Outcomes
i. State of Good Repair
ii. Economic Competitiveness
iii. Livability
iv. Sustainability
v. Safety
b. Job Creation and Economic Stimulus
c. Innovation
d. Partnership

V. Project Readiness and NEPA (information about how ready the project is to move forward quickly, including information about the project schedule, environmental approvals, legislative approvals, state and local planning, technical feasibility, and financial feasibility); applications for TIGER II Planning Grants do not need to address project readiness and NEPA;

VI. Federal Wage Rate Certification (an application must include a certification, signed by the applicant, stating that it will comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code (Federal wage rate requirements), as required by the FY 2010 Appropriations Act); and

VII. To the extent relevant, the final page of the application should describe (in one page or less) any material changes that need to be made to the pre-application form, including changes to the assurances provided in items xvii and xviii regarding initiation of NEPA and required cost sharing.

The purpose of this recommended format is to ensure that applications are provided in a format that clearly addresses the application requirements and makes critical information readily apparent and easy to locate.

D. Length of Applications

The project narrative should not exceed 25 pages in length. Documentation supporting the assertions made in the narrative portion may also be provided, but should be limited to relevant information. If possible, Web site links to supporting documentation (including a more detailed discussion of the benefit-cost analysis) should be provided rather than copies of these materials. At the applicant's discretion, relevant materials provided previously to a Cognizant Modal Administration in support of a different DOT discretionary program (for example, New Starts or TIFIA) may be referenced and described as unchanged. To the extent referenced, this information need not be resubmitted for the TIGER II Discretionary Grant application. DOT recommends use of appropriately descriptive file names (*e.g.,* "Project Narrative," "Maps," "Memoranda of Understanding and Letters of Support," etc.) for all attachments. Cover pages and tables of contents do not count towards the 25-page limit for the narrative portion of the application, and the Federal wage rate certification and one-page update of the pre-application form (if necessary) may also be outside of the 25-page narrative. Otherwise, the only substantive portions of the application that should exceed the 25-page limit are any supporting documents (including a more detailed discussion of the benefit-cost analysis) provided to support assertions or conclusions made in the 25-page narrative section.

E. Contact Information

Contact information is requested as part of the SF–424. DOT will use this information to inform parties of DOT's

decision regarding selection of projects, as well as to contact parties in the event that DOT needs additional information about an application.

F. National Environmental Policy Act Requirement

An application for a TIGER II Discretionary Grant must detail whether the project will significantly impact the natural, social and/or economic environment. If the NEPA process is completed, an applicant must indicate the date of, and provide a Web site link or other reference to, the final Categorical Exclusion, Finding of No Significant Impact or Record of Decision. If the NEPA process is underway but not complete, the application must detail where the project is in the process, indicate the anticipated date of completion and provide a Web site link or other reference to copies of any NEPA documents prepared.

G. Environmentally Related Federal, State and Local Actions

An application for a TIGER II Discretionary Grant must indicate whether the proposed project is likely to require actions by other agencies (*e.g.,* permits), indicate the status of such actions and provide a Web site link or other reference to materials submitted to the other agencies, and/or demonstrate compliance with other Federal, State and local regulations as applicable, including, but not limited to, Section 4(f) *Parklands, Recreation Areas, Refuges, & Historic Properties;* Section 106 *Historic and Culturally Significant Properties;* Clean Water Act *Wetlands and Water;* Executive Orders *Wetlands, Floodplains, Environmental Justice;* Clean Air Act *Air Quality (specifically note if the project is located in a nonattainment area);* Endangered Species Act *Threatened and Endangered Biological Resources;* Magnuson-Stevens Fishery Conservation and Management Act *Essential Fish Habitat;* The Bald and Golden Eagle Protection Act; and/or any State and local requirements.

H. Protection of Confidential Business Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information that the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission "Contains Confidential Business Information (CBI);" (2) mark each affected page "CBI;" and (3) highlight or otherwise denote the CBI portions. DOT protects such information from disclosure to the extent allowed under applicable law. In the event DOT receives a Freedom of Information Act (FOIA) request for the information, DOT will follow the procedures described in its FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA.

IX. Project Benefits

DOT expects to identify and report on the benefits of the projects that it funds with TIGER II Discretionary Grants. To this end, DOT will request that recipients of TIGER II Discretionary Grants cooperate in Departmental efforts to collect and report on information related to the benefits produced by the projects that receive TIGER II Discretionary Grants.

The benefits that DOT reports on may include the following: (1) Improved condition of existing transportation facilities and systems; (2) long-term growth in employment, production or other high-value economic activity; (3) improved livability of communities across the United States; (4) improved energy efficiency, reduced dependence on oil and reduced greenhouse gas emissions; (5) reduced adverse impacts of transportation on the natural environment; (6) reduced number, rate and consequences of surface transportation-related crashes, injuries and fatalities; (7) greater use of innovative technology and innovative approaches to transportation funding and project delivery; (8) greater collaboration with state and local governments, other public entities, private entities, nonprofit entities, or other non-traditional partners; (9) greater integration of transportation decision making with decision making by other public agencies with similar public service objectives; or (10) any other benefits claimed in the project's benefit-cost analysis.

Because of the limited nature of this program, these benefits are likely to be reported on a project-by-project basis and trends across projects that were selected for TIGER II Discretionary Grants may not be readily available. In addition, because many of these benefits are long-term outcomes, it may be years before the value of the investments can be quantified and fully reported. DOT is considering the most appropriate way to collect and report information about these potential project benefits.

X. Questions and Clarifications

For further information concerning this notice please contact the TIGER II Discretionary Grant program manager via e-mail at *TIGERIIGrants@dot.gov,* or call Robert Mariner at 202–366–8914. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993. DOT will regularly post answers to these questions and other important clarifications on DOT's Web site at *http://www.dot.gov/recovery/ost/TIGERII.*

Appendix A: Additional Information on Benefit-Cost Analysis

As previously discussed in the Notice, the lack of a useful analysis of expected project benefits and costs may be a basis for denying an award of a TIGER II Discretionary Grant to any applicant. Additionally, if it is clear that the total benefits of a project are not reasonably likely to outweigh the project's costs, the Department will not award a TIGER II Discretionary Grant to the project. Consequently, it is incumbent upon the applicant to prepare a thorough benefit-cost analysis that demonstrates clearly the derivation of both the costs and the benefits of the project. However, DOT understands that the level of expense that can be expected in these analyses for surveys, travel demand forecasts, market forecasts, statistical analyses, and so on will be less for smaller projects than for larger projects. Smaller projects will therefore be given greater latitude to estimate benefits subjectively. However, even smaller projects will be expected to quantify these subjective estimates of benefits and costs, and to provide whatever evidence they have available to lend credence to their subjective estimates. Estimates of benefits should be presented in monetary terms whenever possible; if a monetary estimate is not possible, then at least a quantitative estimate (in physical, non-monetary terms, such as ridership estimates, emissions levels, etc.) should be provided. A benefit-cost analysis is not necessary for TIGER II Planning Grant applicants; however, such applicants should describe the expected benefits of the underlying project(s) that the planning activities will help advance.

This appendix provides general information and guidance on conducting an analysis. In addition to this guidance, applicants should also refer to OMB Circulars A–4 and A–94 in preparing their analysis (*http://www.whitehouse.gov/omb/circulars/*). Circular A–4 also cites textbooks on

cost-benefit analysis (e.g., Mishan and Quah [8]) if an applicant wants to review additional background material. The Department will rate all analyses as indicated below.

TABLE 1—RATINGS OF BENEFIT-COST ANALYSES

Rating	Description
Very useful	The economic analysis (i) is comprehensive (quantifying and monetizing the full range of costs and benefits, including the likely timing of such costs and benefits, for which such measures are reasonably available), (ii) attempts to describe the indirect effects of transportation investments on land use (when applicable), (iii) helps the Department organize information about, and evaluate trade-offs between, alternative transportation investments, (iv) provides a high degree of confidence as to the extent to which the benefits of the project will exceed the project's costs on a net present value basis, and (v) provides sensitivity analysis to show how changes in key assumptions affect the outcome of the analysis.
Useful	The economic analysis (i) identifies, quantifies, monetizes, and compares the project's expected benefits and costs, but has minor gaps in coverage of benefits and costs or the precise timing of benefits and costs, or fails in some cases to quantify or monetize benefits and costs for which such measures are reasonably available, and (ii) provides a sufficient degree of confidence that the benefits of the project will exceed the project's costs on a net present value basis.
Marginally Useful	The economic analysis (i) identifies, quantifies, monetizes, and compares the project's expected benefits and costs, but has significant gaps in coverage, quantification, monetization, or timing of benefits and costs, or significant errors in its measurement of benefits or costs, and (ii) the Department is uncertain whether the benefits of the project will exceed the project's costs on a net present value basis.
Not Useful	The economic analysis (i) does not adequately identify, quantify, monetize, and compare the project's expected benefits and costs or timing of benefits and costs, (ii) provides little basis for concluding that the benefits of the project will exceed the project's costs on a net present value basis, and (iii) demonstrates an unreasonable absence of data and analysis or poor applicant effort to put forth a robust quantification of net benefits.

A benefit-cost analysis attempts to measure the dollar value of the benefits and the costs to all the members of society (in this context, "society" means all residents of the United States) on a net present value basis. The benefits represent a dollar measure of the extent to which people are made better off by the project—that is, the benefits represent the amount that all the people in the society would jointly be willing to pay to carry out the project, and feel as if they had generated enough benefits to justify the project's costs accounting for the relative timing of those benefits and costs. In some cases, benefits may be difficult to measure in dollar terms. Applicants must at least describe the nature of each of the major types of benefits described in this guidance. To the extent possible, applicants must also quantify each of those types of benefits (*e.g.,* in terms of the number of users making use of a transportation facility). Finally, applicants must attempt to measure those benefits in dollar terms (*i.e.,* "monetize" them). These benefits must then be compared with a dollar measure of the costs of the project. Both benefits and costs must be estimated for each year after work on the project is begun, and these streams of annual benefits and costs must be discounted to the present using an appropriate discount rate, so that a present value of the stream of benefits and a present value of the stream of costs is calculated.

As a starting point for any analysis, applicants should provide a Project Summary describing the project and what it changes. The Project Summary should provide:

- A description of the current infrastructure baseline (e.g., two-lane road);
- A description of what the proposed project is and how it would change the current infrastructure baseline (*e.g.,* extension of a trolley line);
- A general justification for the project and how it affects the long-term outcomes relative to the current baseline;
- A description of who would be the users of the project or what groups of people would benefit from it; and
- A description of what types of economic effects the project is expected to have.

If an application contains multiple separate projects, each of which has independent utility, the applicant should provide a separate summary (and analysis) for each project. The summary should also identify the types of societal benefits the project might generate. The applicant should list the types of benefits here and then clearly demonstrate in the analysis how it estimated benefits for each category. The summary should also include the full cost of a project, including Federal, State, local, and private funding, and not simply the requested grant amount or the local amount.

Each application must include in its analysis estimates of the project's expected benefits with respect to each of the five long-term outcomes specified in Section II(A) *(Selection Criteria).* We recognize that it may in some cases be unclear in which of these categories of outcomes a benefit should be listed. In these cases, it is less important in which category a benefit is listed than to make sure that the benefit is listed and measured (but only once). Applicants must demonstrate that the proposed project has independent utility as defined in this Notice. It cannot be a component of a larger project such that, if the larger project were not built, this project would have little or no transportation value (or, if it is part of a larger project, the application must demonstrate that funding for the larger project is committed). If the applicant provides a benefit-cost analysis for a larger project, then it must estimate what portion of the benefits and costs of the larger project apply to the smaller project for which funding is being sought. The following sections describe baselines, affected population,

[8] E.J. Mishan and Euston Quah, Cost-Benefit Analysis, 5th edition (New York: Routledge, 2007).

discounting, forecasting, costs, and benefit categories in more detail. The Department expects a thorough discussion of these items in the body of the analysis.

Benefit-Cost Analysis vs. Economic Impact Analysis

First, it is important to recognize that a benefit-cost analysis is not an economic impact analysis. Applicants are required to provide a benefit-cost analysis in support of their proposed projects. An economic impact analysis is not a substitute for a benefit-cost analysis.

A benefit-cost analysis attempts to measure the dollar value of the benefits and the costs to all the members of society (in this context, "society" means all residents of the United States). The benefits represent a dollar measure of the extent to which people are made better off by the project—that is, the benefits represent the amount that all the people in the society would jointly be willing to pay to carry out the project, and feel as if they had generated enough benefits to justify the project's costs.

An economic impact analysis, on the other hand, typically focuses on local and regional benefits rather than national benefits. Some of the benefits that are counted in an economic impact analysis, such as diversion of economic activity from one region of the country to another, represent benefits to one part of the country but costs to another part, so they are not benefits from the standpoint of the nation as a whole.

Moreover, economic impact analyses estimate "impacts" rather than "benefits," and the "impacts" are normally quite different from the "benefits." For example, the total payroll of workers on a project is usually considered one of the "impacts" in an economic impact analysis. The total payroll is not a measure of the "benefits" of the project, however, for two reasons. First, a payroll is a cost to whoever pays the employees, at the same time that it is a benefit to the employees, so it is not a net benefit. Second, even for the employees, the employees have to work for their wages, so the amount they are paid is not a net benefit to them—it is a benefit only to the extent that they value their wages more than the cost to them of having to be at work every day.

Economic impact analyses also often treat real estate investments induced by a project as one of the economic "impacts." The full value of such an investment is not a "benefit," however, because the benefit of those investments to the community in which they are made is balanced by the cost of the investment to the investor. Because these investments are a cost as well as a benefit, they are not a net benefit for purposes of a benefit-cost analysis.

There is often an element of benefit in these "impacts." A worker who gets a higher-paying job as a result of a transportation investment project benefits if he or she works just as hard as he or she did at his or her previous job but is paid more. Such projects produce benefits by increasing the productivity of labor. A transportation investment project that increases the value and productivity of land and thus induces real estate investment can also provide a benefit, but the benefit must be measured net of the cost of making the real estate investment. Measuring these labor productivity effects requires a careful analysis of the local labor market and how that market is changed by the transportation investment. Similarly, measuring the effects of transportation projects on the productivity of land requires a careful netting out of increases in land values that are compensated by costs of real estate investment and increases in land values that in effect capitalize other types of benefits that have already been counted, such as time savings.

In summary, applicants must be careful to measure only the net benefits of a project, and should avoid using software packages that are designed primarily to produce economic impact analyses. An application containing only an economic impact analysis does not meet the program's requirements and may be denied an award for that reason.

Baselines and Alternatives

Applicants should measure costs and benefits of a proposed project against a baseline (also called a "base case" or a "no build" case). The baseline should be an assessment of the way the world would look if the project did not receive the requested TIGER II Discretionary Grant funding. Usually, it is reasonable to forecast that that baseline world resembles the present state. However, it is important to factor in any projected changes (e.g., baseline economic growth, increased traffic volumes, or completion of already planned and funded projects) that would occur even if the proposed project were not funded. In some cases the proposed project already has a financing plan that would allow it to be built, but that involves a slower construction schedule than would occur if it received TIGER II Discretionary Grant funding. Or it may be likely that, in the absence of TIGER II Discretionary Grant funding, the project would be built later using ordinary funding sources. In these cases, the TIGER II Discretionary Grant funding may accelerate completion of the project, but it does not allow a project to be built that would never otherwise have been built. The benefits and costs in this case should thus be limited to the marginal benefits (and marginal costs) of having the project completed in a shorter period of time and including the cost of expending resources on the project sooner than otherwise planned.

Many projects have multiple parts or multiple phases, only one or two of which would actually receive funding from a TIGER II Discretionary Grant. It is important in these cases that both the costs and the benefits pertain to the same portion of the project. If the part or phase of the project funded by a TIGER Discretionary Grant has independent utility, then the analysis should compare the costs and the benefits of just that part or phase. If the part or phase of the project funded by a TIGER Discretionary Grant does not have independent utility, then the applicant must first demonstrate that funding is committed for the entire project (or for an entire portion of the project, including the TIGER Discretionary Grant-funded portion, that has independent utility). In this case, the applicant should compare the benefits and costs of the entire project (or the entire portion of the project that has independent utility). The applicant must make clear exactly what portions of the project form the basis of the estimates of benefits and costs. It is incorrect to claim benefits from time savings accruing from a 100-mile highway when the TIGER II Discretionary Grant will only fund 10 miles. Similarly, it would be incorrect to attribute all the benefits from a new port facility to a TIGER II Discretionary Grant when the TIGER Discretionary Grant-grant-funded portion only pays for pavement. In some cases, the applicant may choose to allocate the benefits of the project proportionately to the costs of the project that would be funded by the TIGER II Discretionary Grant, but this should generally be done only if (1) the TIGER Discretionary Grant funds are commingled with non-TIGER Discretionary Grant funds for a single, non-divisible structure that has independent utility and (2) the project has sufficient funding in place to be completed as a whole unit. If a project is being funded by multiple Federal, State, and local sources, it would be inappropriate to attribute the full benefit of the project to only one source of funding (such as the local share or the TIGER II Discretionary Grant itself).

All costs and benefits of the project should be evaluated, including benefits and costs that fall outside of the jurisdiction sponsoring the project. It is also important that the applicant assume the continuation of reasonable and sound management practices in establishing a baseline. Assuming a baseline scenario in which the owner of the facility does no maintenance on the facility and ignores traffic problems and maintenance is not realistic and will lead to the overstatement of project benefits.

In addition to the baseline, the applicant should present and consider reasonable alternatives in the analysis. Smaller-scale and more focused projects should be evaluated for comparison purposes. For example, if an applicant is requesting funds to replace a pier, it should also analyze the alternative of rehabilitating the current pier. Similarly, if an applicant seeks funds to establish a relatively large streetcar project, it should also evaluate a more focused project serving only the more densely populated corridors or an area.

Affected Population

Applicants should clearly identify the population that the project will affect and measure the number of passengers (for a passenger project) and the amount of freight (for a freight project) affected by the project. If possible, passenger and freight traffic should be measured in passenger-miles and freight ton-miles (and possibly value of freight). If, as is often the case (*e.g.,* projected growth in highway traffic), the forecasted traffic volume is not the same for all years, then the applicant needs to break out the forecasted traffic annually. In some cases, the characteristics of the passenger population or of the freight shipper population may be important (*e.g.,* whether the passengers or shippers are members of a disadvantaged group, or whether the passengers or shippers are spread across a multi-state region). Measures of freight traffic might include growing levels of port calls. In some cases, the relevant population is the volume of traffic that is diverted from one mode to another. Applicants must clearly identify which population will be affected by any particular benefit. For example, the affected population that will enjoy travel time savings may be different from the affected population benefiting from reduced shipping costs. Further, the applicant should be realistic as to how the project affects these populations. For example, improving rail access to a wholesale distribution center near an urban area may take some trucks off the road that had been carrying freight from a truck/rail intermodal yard to the wholesale distribution center. However, it is unrealistic to claim benefits from reduced truck traffic all the way from the shipping origin point hundreds or thousands of miles away to the truck/rail intermodal yard, if that traffic would be likely to be moving by rail already.

Discounting

Applicants should discount future benefits and costs to present values using a real discount rate of 7 percent, following guidance provided by OMB in Circulars A–4 and A–94 (*http://www.whitehouse.gov/omb/circulars_default/*). Applicants may also provide an alternative analysis using a real discount rate of 3 percent. The latter approach should be used when the alternative use of funds currently dedicated to the project would be other public expenditures, rather than private investment.

As a first step, applicants should present the year-by-year stream of benefits and costs from the project. Applicants should clearly identify when they expect costs and benefits to occur. The beginning point for the year-by-year stream of benefits should be the first year in which the project will start generating costs or benefits. The ending point should be far enough in the future to encompass all of the significant costs and benefits resulting from the project but not to exceed the usable life of the asset without capital improvement.[9] In presenting these year-by-year streams, applicants should measure them in constant (or "real") dollars prior to discounting. Applicants should not add in the effects of inflation to the estimates of future benefits and costs prior to discounting. Once an applicant has generated the stream of costs and benefits in constant dollars, it should then discount these estimates to arrive at a present value of costs and benefits. The standard formula for the discount factor in any given year is $1/(1 + r)^t$, where "r" is the discount rate and "t" measures the number of years in the future that the costs or benefits will occur. Infrequently, benefits or costs will be the same in constant dollars for all years. In these limited cases, an applicant can calculate the formula for the present value of an ordinary annuity instead of showing a year-by-year calculation.[10]

Forecasting

Benefit-cost analyses of transportation projects almost always depend on forecasts of projected levels of usage (road traffic, port calls, etc.). When an applicant is using such forecasts to generate benefit estimates, it must assess the reliability of these forecasts. If the applicant is using outside forecasts, it must provide a citation and an appropriate page number for the forecasts. An applicant should carefully review any outside forecasts for reliability before using them in its analyses. In cases where an applicant is using its own estimates, it should clearly demonstrate in the analysis the methodology it used to forecast affected population (e.g., traffic). The number of individuals who enjoy the benefits of a project will partly determine the net benefits of the project. Consequently, accurate forecasts are essential to conducting a quality benefit-cost analysis. Applicants should also take great care to match forecasts of affected population to the corresponding year. For example, using projected traffic levels for 2030 to generate benefits for all the earlier years in incorrect. For more information on forecasting, applicants can refer to the forecasting section of FHWA's Economic Analysis Primer (*http://www.fhwa.dot.gov/infrastructure/asstmgmt/primer06.cfm*). While produced for analysis of highway projects, the primer is a good source of information on issues related to all transportation forecasting.

[9] In some cases the application may use a fixed term of years to analyze benefits and costs (e.g., 20 years), even though the applicant knows that the project will last longer than that and continue to have benefits and costs in later years. In these cases, the project will retain a "residual value" at the end of the analysis period. For instance, a new bridge may be expected to have a 100-year life but the analysis period for the benefit-cost analysis might cover only 40 years. In such cases, a residual value can be claimed as a benefit (or cost offset) for the asset at the end of the analysis period. One method to estimate the residual value is to calculate the percentage of the project that will not be depreciated or used up at the end of the analysis period and to multiply this percentage by the original cost of the project. Different components of the project may have different depreciation rates—land typically does not depreciate. The estimated residual value is assigned to the end of the analysis period and should then be discounted to its present value as would any other cost or benefit occurring at that time. Note that a residual value of a project can only be claimed if the project will be kept in operation beyond the end of the analysis period. If the project will be retired at that time, a salvage value (reflecting revenues raised from the decommissioning of the project) can be claimed.

[10] *See http://www.brighthub.com/money/personal-finance/articles/17948.aspx.* For example, 10.594 is the discount factor that would be multiplied by an annual benefit to get the present value of a constant benefit stream over 20 years at a discount rate of seven percent. If the constant annual benefit is $500,000, then the present value of the benefits is $5.297 million. In these limited cases, the applicant must show the calculation of the discount factor of the ordinary annuity formula.

Costs

As noted above, the estimate of costs must pertain to the same project as the estimate of benefits. If the TIGER II Discretionary Grant is to pay for only part of the project, but the project is indivisible (*i.e.,* no one part of the project would have independent utility), then the benefits of the whole project should be compared to the costs of the whole project, including costs paid for by State, local, and private partners other than the Federal government. Applicants may not claim that the TIGER II Discretionary Grant "leverages" the financial contributions of other parties, and therefore that all the benefits of the project are attributable to the TIGER II Discretionary Grant, even though the TIGER II Discretionary Grant only pays for part of the project.

The analysis of costs should be equally as rigorous as the analysis of benefits. The lack of a useful analysis of expected project costs may be a basis for denying the award of a TIGER II Discretionary Grant to an applicant. In general, applicants should use a life-cycle cost analysis approach in estimating the costs of the project. The Department expects applicants to include operating, maintenance, and other life-cycle costs of the project, along with capital costs. In addition to construction costs, other direct costs may include design and land acquisition. If the time period considered in the analysis is long enough to require the rehabilitation of the facility during the period of analysis, then the costs of that rehabilitation should be included. External costs, such as noise, increased congestion, and environmental pollutants resulting from the use of the facility or related changes in usage on other facilities in the same network, should be considered as costs in the analysis. Additionally, applicants should include, to the extent possible, costs to users during construction, such as delays and increased vehicle operating costs. The applicant should correctly discount annual costs to arrive at a present value of the project's cost.

Types of Benefits—Livability

There are several potential benefits that a project could generate that affect livability. The most important aspect of livability is accessibility to non-single-occupancy vehicle modes of transportation, such as transit, bicycle paths, and sidewalks. Measuring the benefits of increased accessibility should start with a quantitative measure of the increase in accessibility—how many people will have access to these alternative modes who did not have access before? The analysis should go on to estimate how many people are actually likely to use these newly available transportation modes and how much of their existing single-occupancy vehicle travel are those people likely to divert to these alternative modes. Finally, the analysis should attempt to estimate the monetary value that people place on access to these newly available transportation modes. In some cases, monetary values may be estimated based on existing market transactions—*e.g.,* bicycle rentals. In others, differentials in the market values of land or rents between residences and businesses that are already easily accessible (*e.g.* < 0.5 miles) to these modes and those that are in the same areas but not easily accessible (*e.g.* > 0.5 miles) can be used as a proxy estimate of the value of this access. In other cases, no objective market values are available, and the applicant should make the best subjective estimate it can of the average value that this accessibility has to those who now have access to these alternative modes.

Transit and bicycle paths may provide greater accessibility to alternative transportation modes, but they will not actually enhance livability unless people actually want to use them, and the desire to use them will depend in part on where these modes go and on the amenities provided with them. An important part of accessibility is making sure not only that people's residences are accessible to these modes, but that the modes connect to workplaces, schools, shopping, and other desired destinations. Assessments of enhanced accessibility should describe where these alternative modes go as well as where they start.

Land use changes are also an important aspect of livability. When people live closer to their workplaces, their schools, and shopping, they will be more likely to use these alternative transportation modes. Transportation changes that encourage more mixed-use land development (where residences are intermixed with workplaces and shopping) will shorten the length of travel and encourage more use of non-highway modes. The analysis should evaluate the extent to which the proposed transportation project will encourage these changes in land use and be coordinated with zoning changes and other public and private investments. Changes in land use that result in shorter travel distances can result in long-term travel time savings, and the quantitative extent of these time savings can be estimated. Values of time can then be used to estimate the monetary value of these time savings. The applicant should propose a subjective estimate of the monetary value of land use changes. Land use changes can also reduce the total cost of transportation for the affected population, so applicants should attempt to measure the effects of the project and associated land use changes on average household transportation expenditures.

In using differentials in property values or rents to measure the value of changes in accessibility, applicants must identify other factors that might have caused property values and/or rents to change and isolate the portion of the change that is attributable to the change in accessibility. Applicants must also be careful to avoid double-counting. If the applicant has already counted reductions in travel time as a benefit, the value of those reductions in travel time may get capitalized in changes in property values or rents, and the applicant must be careful not to count those benefits again as part of the change in property values.

Finally, an important aspect of livability is the availability of transportation to disadvantaged communities, such as low-income people, non-drivers, people with disabilities, and senior citizens. Applicants should assess the extent to which their projects will improve transportation opportunities for members of these disadvantaged communities. While there may not be well-defined methodologies for assigning monetary values to these enhancements to accessibility, applicants should attempt to measure the size of the disadvantaged community affected and make subjective judgments of the monetary values that should be assigned to these improvements.

Types of Benefits—Economic Competitiveness

Economic competitiveness benefits might include reduced operating costs due to infrastructure improvements. In some cases, a project produces economic competitiveness benefits because the existing users of the facility will have lower operating costs after the improvement is completed. In other cases, the economic competitiveness benefits result from modal diversion—users shifting from a higher-cost transportation mode to a lower-cost transportation mode when the quality of service on the lower-cost mode becomes more competitive. In this case, the applicant should demonstrate clearly what the basis is of any estimated modal diversion. In estimating operating cost savings, it is important to avoid double-

counting. For example, applicants must not count both the reductions in fuel costs and the overall reductions in operating costs, because fuel costs are part of operating costs.

One particular form of reduced operating costs is travel time savings. Road improvements or other projects whose purpose is to relieve congestion frequently generate travel time savings for travelers and shippers that contribute to economic competitiveness. Where this is the case, applicants should clearly demonstrate how the travel time savings are calculated and should account for induced travel demand to the extent practical or applicable. If travel time savings vary over time, the applicant must clearly show savings by year. Once the applicant generates its estimate of hours saved, it should apply the Department's guidance on the value of time to those estimates (*http://ostpxweb.dot.gov/policy/reports.htm*) to monetize them.

Freight-related projects that improve roads, rails, and ports frequently generate savings to shippers that they pass on to consumers (*e.g.,* fuel savings and other operating cost savings). If applicants are projecting these savings as benefits, they need to carefully demonstrate how the proposed project would generate such benefits. However, savings to freight carriers can not be counted along with savings to shippers that are passed along from the carrier to the shipper.

Applicants should also guard against analysis that double-counts other kinds of benefits. Analysis should distinguish between real benefits and transfer payments. Benefits reflect real resource usage and overall benefits to society, while transfers represent payments by one group to another and do not represent a net increase in societal benefits. Employment or output multipliers that purport to measure secondary effects should not be included as societal benefits because these secondary effects are generally the same (per dollar spent) regardless of what kind of project is funded.

As noted earlier in this Appendix (*see Benefit-Cost Analysis vs. Economic Impact Analysis*), applicants must be extremely cautious about including job creation and economic development benefits as societal benefits in the benefit-cost analysis. In the case of job creation, for example, every job represents both a cost to the employer (paying a wage) and a benefit to the employee (receiving a wage), so it is a transfer payment, rather than a net benefit. However, if a project increases the productivity of labor, then the applicant can count the increased productivity as a benefit. For example, if the project allows workers working at low-productivity jobs to switch to high-productivity jobs, then the increase in their productivity can be counted as a benefit. But the applicant needs to demonstrate rigorously how such productivity benefits are estimated and the exact time period over which the productivity benefits occur. Simply asserting these gains is inadequate.

With respect to economic development, estimates of capital investments or property tax revenues are not legitimate benefits in a benefit-cost analysis. A property tax is a benefit to the tax assessor, but it is a cost to the taxpayer. An applicant can potentially claim an increase in the value of land as a benefit if the transportation project increases the value and productivity of the land. However, the applicant needs to count the increase in the value of the land carefully to avoid double counting and transfer payments. For example, if the property value goes up by the exact same value as the developer's investment, then this is not a benefit. Property value increases over and above the developer's investment may potentially be a benefit from the project. However, if this property value increase is due to improved travel times that the applicant has already included as a benefit then there is no additional benefit here. The analysis should also consider to what extent an increase in land values induced by the project in one area causes a reduction in land values in some other area. Only the net increase in land value can be counted as a benefit.

Applicants must carefully net out any embedded time savings in the property value increase before claiming any benefits. Simply asserting that there is a property tax increase net of time savings is inadequate. The Department expects any applicant claiming these types of benefits to provide a rigorous justification of the benefit that shows how it is derived from the project (rather than from some other non-project investment) and that shows how increases in property values attributable to other benefits (such as travel time savings) have been deducted. Applicants should note that any claimed societal benefit from a property value increase is only a one-time stock benefit. Applicants can not treat it as a stream of benefits accruing annually.

Types of Benefits—Safety

Road projects can also improve the safety of transportation. A well-designed project can reduce fatalities and injuries as well as reduce other crash costs, such as hazardous materials releases. The applicant should clearly demonstrate how the project will improve safety. For example, to claim a reduction in fatalities, an applicant must clearly demonstrate how the existence of the project would have prevented the types of fatalities that commonly occur in that area. Applicants should use crash causation factors or similar analyses of causes of crashes to show the extent to which the type of improvements proposed would actually reduce the likelihood of the kinds of crashes that actually had occurred. Alternatively, when only a few cases are involved, the applicant should provide a description of the incidents and demonstrate the linkage between the proposed project and crash reduction. In some cases, safety benefits may occur because of modal diversion from a less safe mode to a more safe mode. When this type of benefit is claimed, the applicant should provide a clear analysis of why the forecasted modal diversion will take place. Once the applicant has established a reasonable count of the incidents that are likely to be prevented by the project, it should apply the Department's guidance on value of life and injuries (*http://ostpxweb.dot.gov/policy/reports.htm*) to monetize them. Sources of information on the social benefits of reducing crash costs are discussed in Chapter VIII of the Final Regulatory Impact Analysis of the National Highway Traffic Safety Administration's rulemaking on Corporate Average Fuel Economy for MY 2011 Passenger Cars and Light Trucks (*http://www.nhtsa.dot.gov/portal/site/nhtsa/menuitem.d0b5a45b55bfbe582f57529cdba046a0/*). The economic values of various benefits are summarized in Table VIII–5 on page VIII–60.

Types of Benefits—State of Good Repair

Many infrastructure projects that improve the state of good repair of transportation infrastructure can reduce long-term maintenance and repair costs. These benefits are in addition to the benefits of reductions in travel time, shipping costs, and crashes which the applicant should account for separately. Applicants should include these maintenance and repair savings as benefits. Improving state of good repair may also reduce operating costs and congestion by reducing the amount of time that the infrastructure is out of service due to maintenance and repairs, or may prevent a facility (such as a bridge) from being removed from service entirely. In the latter case, the analysis should include a reasonable assessment of the cost that closing the facility would have on system users who would

be required to take longer and more circuitous routes, as well as the probability (and likely time in the future) when the bridge would need to be closed. The application should also consider differences in maintenance and repair costs when comparing different project alternatives. For example, an applicant can compare the maintenance costs that would be required after rehabilitating an existing pier with those that would be required after building a new one. As part of the data that go into estimating the benefits of improving the state of good repair, applicants should provide accepted metrics for assessing an asset's current condition. For example, applicants can use Present Serviceability Ratings (PSR) to discuss pavement condition and bridge sufficiency ratings to discuss the condition of a bridge. As discussed in the section on costs, the Department expects applicants to consider the life-cycle costs of the project when making these comparisons.

Types of Benefits—Sustainability

Transportation can generate environmental costs in the form of emissions of "criteria pollutants" (*e.g.,* SO_X, NO_X, and particulates) and from the emission of greenhouse gases, such as carbon dioxide (CO_2). Increased traffic congestion results in increased levels of these emissions. Transportation projects that reduce congestion can reduce these emissions and produce societal benefits given reduced idling and otherwise constant vehicle miles travelled. Also, transportation projects that encourage transportation users to shift from more-polluting modes to less-polluting modes can similarly reduce emissions. Applicants claiming these types of benefits must clearly demonstrate and quantify how the project will reduce emissions. Once an applicant has adequately quantified levels of emission reductions, it should estimate the dollar value of these benefits. Sources of information on the social benefits of reducing criteria pollutant emissions are discussed in Chapter VIII of the Final Regulatory Impact Analysis of the National Highway Traffic Safety Administration's rulemaking on Corporate Average Fuel Economy for MY 2011 Passenger Cars and Light Trucks (*http://www.nhtsa.dot.gov/portal/site/nhtsa/menuitem.d0b5a45b55bfbe582f57529cdba046a0/*).

The Interagency Working Group on Social Cost of Carbon has recently issued its guidance on "Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866" (*http://www1.eere.energy.gov/buildings/appliance_standards/commercial/pdfs/sem_finalrule_appendix15a.pdf*). This guidance lays out a range of values to use for monetizing the social cost of carbon at various years in the future and at various discount rates. Applicants should clearly indicate how and to what degree calculations of benefits in their analyses are based on these assumed values of CO_2 emissions reduction.

Transparency and Reproducibility of Calculations

Applicants should make every effort to make the results of their analyses as transparent and reproducible as possible. Applicants should clearly set out basic assumptions, methods, and data underlying the analysis and discuss any uncertainties associated with the estimates.

A Department reviewer reading the analysis should be able to understand the basic elements of the analysis and the way in which the applicant derived the estimates. If the application refers the reader to more detailed documentation to explain how the calculations were done, that documentation must go beyond merely providing spreadsheets. It must include a thorough verbal description of how the calculation was done, including references to tabs and cells in the spreadsheet. This verbal description should include specific sources for all the numbers in the spreadsheet that are not calculated from the spreadsheet itself.

If an applicant uses a "pre-packaged" economic model to calculate net benefits, the applicant should provide annual benefits and costs by benefit and cost type for the entire analysis period. In any case, applicants must provide a detailed explanation of the assumptions used to run the model (*e.g.,* peak traffic hours and traffic volume during peak hours, mix of traffic by cars, buses, and trucks, etc.). The applicant must provide enough information so that a Department reviewer can follow the general logic of the estimates (and, in the case of spreadsheet models, reproduce them).

Ideally, the applicant should be able to summarize the results of all pertinent data and cost and benefit calculations in a single spreadsheet tab (or table in *Word*). A Department reviewer should be able to understand the calculations in spreadsheet models both from directions in the spreadsheet and any accompanying text. The following provides a simplified example for expository purposes of discounted costs and benefits from a road project providing travel time savings only to local travelers over the course of five years following a one-year period of construction.

Calendar year	Project year	Affected drivers	Travel Time saved (hours) [1]	Total value of time saved ($2008) [2]	Initial costs ($2008)	Operations & maintenance costs ($2008) [3]	Undiscounted net benefits	Discounted at 7%
2011	1	.....	.....	.....	$38,500,000	$6,000,000	$44,500,000	−$41,588,785
2012	2	80,000	1,040,000	$14,248,000	.....	$700,000	$13,548,000	$11,833,348
2013	3	95,000	1,235,000	$16,919,500	.....	$700,000	$16,219,500	$13,239,943
2014	4	100,000	1,300,000	$17,810,000	.....	$700,000	$17,110,000	$13,053,137
2015	5	102,000	1,326,000	$18,166,200	.....	$700,000	$17,466,200	$12,453,159
2016	6	109,000	1,417,000	$19,412,900	.....	$700,000	$18,712,900	$12,469,195
NPV	.....	.....	.....	.....	.....	.....	.....	$21,459,998

[1] Number of drivers times three minutes a day (3/60 hours) over 260 workdays.
[2] Hours at $13.70 per hour ($2008).
[3] Includes costs from delays to users during construction.

Most applicant analyses will be more complicated than this example and will likely include several benefit categories. However, the summary cost and benefit data should be as transparent and as easy to follow and replicate as the example above.

Appendix B: Additional Information on Applying Through Grants.gov

Applications (Stage 2) for TIGER II Discretionary Grants must be submitted through Grants.gov. To apply for funding through Grants.gov, applicants must be properly registered. Complete instructions on how to register and apply can be found at *http://www.grants.gov.* If interested parties experience difficulties at any point during registration or application process, please call the Grants.gov Customer Support Hotline at 1–800–518–4726, Monday–Friday from 7 a.m. to 9 p.m. EST.

Registering with Grants.gov is a one-time process; however, processing delays may occur and it can take up to several weeks for first-time registrants to receive confirmation and a user password. It is highly recommended that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application by the deadlines specified. Applications will not be accepted after the relevant due date; delayed registration is not an acceptable reason for extensions. In order to apply for TIGER II Discretionary Grant funding under this announcement and to apply for funding through Grants.gov, all applicants are required to complete the following:

1. *Acquire a DUNS Number.* A DUNS number is required for Grants.gov registration. The Office of Management and Budget requires that all businesses and nonprofit applicants for Federal funds include a DUNS (Data Universal Numbering System) number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for Federal assistance applicants, recipients, and sub-recipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Obtain a DUNS number by calling 1–866–705–5711 or by applying online at *http://www.dunandbradstreet.com.*

2. *Acquire or Renew Registration With the Central Contractor Registration (CCR) Database.* All applicants for Federal financial assistance maintain current registrations in the Central Contractor Registration (CCR) database. An applicant must be registered in the CCR to successfully register in Grants.gov. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients, and sub-recipients. Organizations that have previously submitted applications via Grants.gov are already registered with CCR, as it is a requirement for Grants.gov registration. Please note, however, that applicants must update or renew their CCR registration at least once per year to maintain an active status, so it is critical to check registration status well in advance of relevant application deadlines. Information about CCR registration procedures can be accessed at *http://www.ccr.gov.*

3. *Acquire an Authorized Organization Representative (AOR) and a Grants.gov Username and Password.* Complete your AOR profile on Grants.gov and create your username and password. You will need to use your organization's DUNS Number to complete this step. For more information about the registration process, go to *http://www.grants.gov/applicants/get_registered.jsp.*

4. *Acquire Authorization for Your AOR From the E-Business Point of Contact (E-Biz POC).* The E-Biz POC at your organization must log in to Grants.gov to confirm you as an AOR. Please note that there can be more than one AOR for your organization.

5. *Search for the Funding Opportunity on Grants.gov.* Please use the following identifying information when searching for the TIGER II funding opportunity on Grants.gov. The Catalog of Federal Domestic Assistance (CFDA) number for this solicitation is 20.933, titled Surface Transportation Infrastructure Discretionary Grants for Capital Investments II.

6. *Submit an Application Addressing All of the Requirements Outlined in This Funding Availability Announcement.* Within 24–48 hours after submitting your electronic application, you should receive an e-mail validation message from Grants.gov. The validation message will tell you whether the application has been received and validated or rejected, with an explanation. You are urged to submit your application at least 72 hours prior to the due date of the application to allow time to receive the validation message and to correct any problems that may have caused a rejection notification.

Note: When uploading attachments please use generally accepted formats such as .pdf, .doc, and .xls. While you may imbed picture files such as .jpg, .gif, .bmp, in your files, please do not save and submit the attachment in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

Experiencing Unforeseen Grants.gov Technical Issues

If you experience unforeseen Grants.gov technical issues beyond your control that prevent you from submitting your application by the deadline, you must contact Robert Mariner at 202–366–8914 or *Robert.Mariner@dot.gov* within 24 hours after the deadline and request approval to submit your application. At that time, DOT staff will require you to e-mail the complete grant application, your DUNS number, and provide a Grants.gov Help Desk tracking number(s). After DOT staff review all of the information submitted as well as contacts the Grants.gov Help Desk to validate the technical issues you reported, DOT staff will contact you to either approve or deny your request to submit a late application. If the technical issues you reported cannot be validated, your application will be rejected as untimely.

To ensure a fair competition for limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the registration process before the deadline date; (2) failure to follow Grants.gov instructions on how to register and apply as posted on its Web site; (3) failure to follow all of the instructions in the funding availability notice; and (4) technical issues experienced with the applicant's computer or information technology (IT) environment.

Issued on: May 26, 2010.

Ray LaHood,

Secretary.

[FR Doc. 2010–13078 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice To Rescind Notice of Intent To Prepare an Environmental Impact Statement: Franklin and Warren Counties, MO

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescind Notice of Intent to prepare an environmental impact statement.

SUMMARY: The FHWA is issuing this notice to advise the public that we are rescinding the Notice of Intent (NOI) to prepare an environmental impact statement (EIS) for improvements that were proposed for Route 47 in Franklin

and Warren Counties, Missouri. The NOI was published in the **Federal Register** on April 22, 2008. This rescission is based on a reduction in the scope of the project.

FOR FURTHER INFORMATION CONTACT: Peggy J. Casey, Environmental Projects Team Leader, FHWA Division Office, 3220 West Edgewood, Suite H, Jefferson City, Missouri 65109, Telephone: (573) 638–2620 or Kevin Keith, Chief Engineer, Missouri Department of Transportation, P.O. Box 270, Jefferson City, Missouri 65102, Telephone: (573) 526–5678.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Missouri Department of Transportation (MoDOT), is rescinding the NOI to prepare an EIS for a project that had been proposed to improve the transportation system on Route 47 in Warren and Franklin Counties, Missouri. The NOI is being rescinded because the scope of the project has been reduced from the 2008 proposal to replace the existing bridge over the Missouri River and relocate or reconstruct Missouri Route 47 between Route 94 in Warren County and Fifth Street in the city of Washington in Franklin County. The currently proposed project will replace the Route 47 Bridge either immediately upstream or downstream from the existing bridge. The project extends roughly from Augusta Bottom Road in Warren County south to the touchdown in the city of Washington in Franklin County.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: May 25, 2010.

Peggy J. Casey,

Environmental Projects Team Leader, Jefferson City.

[FR Doc. 2010–13008 Filed 5–28–10; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–42: OTS No. H–4706]

Jacksonville Bancorp, Inc., Jacksonville, IL; Approval of Conversion Application

Notice is hereby given that on May 14, 2010, the Office of Thrift Supervision approved the application of Jacksonville Bancorp, MHC, and Jacksonville Savings Bank, Jacksonville, Illinois, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (phone number: 202–906–5922 or e-mail *Public.Info@OTS.Treas.gov*) at the Public Reading Room, 1700 G Street, NW., Washington, DC 20552, and the OTS Central Regional Office, 1 South Wacker Drive, Suite 2000, Chicago, Illinois 60606.

Dated: May 21, 2010.

By the Office of Thrift Supervision.

Sandra E. Evans,

Federal Register Liaison.

[FR Doc. 2010–12819 Filed 5–28–10; 8:45 am]

BILLING CODE 6720–01–M

Federal Register

Tuesday,
June 1, 2010

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 635

Atlantic Highly Migratory Species; Atlantic Shark Management Measures; Amendment 3; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 635

[Docket No. 080519678–0217–02]

RIN 0648–AW65

Atlantic Highly Migratory Species; Atlantic Shark Management Measures; Amendment 3

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

ACTION: Final rule.

SUMMARY: NMFS publishes this final rule implementing the Final Amendment 3 to the Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP). As it developed Amendment 3, NMFS examined a full range of management alternatives available to rebuild blacknose sharks and end overfishing of blacknose and shortfin mako sharks, consistent with recent stock assessments, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and other applicable law, and evaluated options for managing smooth dogfish as a highly migratory species under the HMS FMP. This final rule implements the final conservation and management measures in Amendment 3 for blacknose sharks, shortfin mako sharks, and smooth dogfish. In order to reduce confusion with spiny dogfish regulations, this final rule places both smooth dogfish and Florida smoothhound into the "smoothhound shark complex." This final rule also announces the opening date and 2010 annual quotas for small coastal sharks (SCS). These changes could affect all fishermen, commercial and recreational, who fish for sharks in the Atlantic Ocean, the Gulf of Mexico, and the Caribbean Sea.

DATES: The SCS fishery opens on June 1, 2010.

This final rule is effective on July 1, 2010, except for the amendments to §§ 635.27(b)(1)(i) through (v) and 635.28(b) which will be effective on June 1, 2010.

However, §§ 635.4(e)(4), 635.20(e)(4), 635.22(c)(6), 635.24(a)(7), 635.27(b)(1)(vi), 635.27(b)(2)(iv), and section E of Table 1 of Appendix A, contain information collection requirements which are pending approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). A document will be published in the **Federal Register** announcing the effective date of those provisions when they are approved.

ADDRESSES: Copies of the final Amendment 3 to the Consolidated HMS FMP, including the Final Environmental Impact Statement (FEIS), the latest shark stock assessments, and other documents relevant to this rule are available from the Highly Migratory Species Management Division Web site at *http://www.nmfs.noaa.gov/sfa/hms* or by contacting LeAnn Southward Hogan or Karyl Brewster-Geisz at 301–713–2347. Hard copies may also be requested by writing to the HMS Management Division, 1315 East-West Highway, Silver Spring, MD 20910, or faxing to (301) 713–1917.

NMFS has not yet submitted an application to OMB for approval of the collection-of-information regarding the smoothhound shark permit. The implementation of this specific requirement is delayed pending approval by OMB. Once submitted, written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements may be submitted to Karyl Brewster-Geisz (*see* above) and by e-mail to *David_Rostker@omb.eop.gov* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or LeAnn Southward Hogan at 301–713–2347 or fax 301–713–1917 or Jackie Wilson at 240–338–3936 or fax 404–806–9188.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic shark fisheries have been managed by the Secretary pursuant to the HMS FMP for Atlantic sharks prepared under the authority of the Magnuson-Stevens Act Sections 302(a)(3) and 304(g) in 1993 (1993 FMP). NMFS revised the 1993 FMP to include swordfish and tunas in the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks (1999 FMP). After amending the 1999 FMP in 2003, NMFS consolidated the Atlantic tunas, swordfish, and shark FMP and its amendments with the Atlantic billfish FMP and its amendments creating the 2006 Consolidated Atlantic HMS FMP. Amendments 1 and 2 amended the 2006 Consolidated HMS FMP in 2009 and 2008, respectively. Amendment 3 further amends the 2006 Consolidated HMS FMP. The 2006 Consolidated HMS FMP and its amendments are implemented by regulations codified at 50 CFR part 635.

On May 7, 2008, NMFS announced its determination that blacknose sharks are overfished with overfishing occurring while Atlantic sharpnose sharks, bonnethead sharks, and finetooth sharks are not overfished and are not experiencing overfishing (73 FR 25665). These determinations were based on the results of the 2007 SCS stock assessment, which was conducted in a manner similar to the Southeast Data Assessment and Review (SEDAR) process that is used by the South Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils. NMFS has found that this 2007 SCS stock assessment is the best available science regarding the status of SCS. The status determination criteria that are used to determine the status of Atlantic HMS are fully described in Chapter 3 of the 1999 FMP, and fully incorporated in the 2006 Consolidated HMS FMP, are summarized in other documents such as Amendment 3, and are not repeated here.

NMFS has also determined that blue sharks are not overfished and overfishing is not occurring. With respect to shortfin mako sharks, however, NMFS has determined that the species while not overfished, is approaching an overfished condition, and is subject to overfishing. These determinations are based on international stock assessments conducted by the International Commission for the Conservation of Atlantic Tuna's (ICCAT's) Standing Committee for Research and Science (SCRS). While these assessments are international, the status determination criteria are the same as those used for SCS and all Atlantic shark species that are managed under the 2006 Consolidated HMS FMP and its amendments. NMFS has determined the ICCAT stock assessment to be the best available science for managing shortfin mako and blue sharks.

Under the Magnuson-Stevens Act, NMFS, when managing HMS on behalf of the Secretary, is required to take action to end overfishing, to rebuild an overfished fishery, and, if a fishery is approaching an overfished condition, take action to prevent overfishing from occurring. Since NMFS determined that the blacknose shark fishery was overfished, it was responsible for developing conservation and management measures to end overfishing and rebuild the fishery. Similarly, upon learning that the shortfin mako fishery was approaching an overfished condition, NMFS had a duty, taking into account the international nature of the fishery, to take appropriate action at the domestic or international level, to prevent overfishing of the shortfin mako sharks. NMFS announced its intent to develop

amendments to the 2006 Consolidated HMS FMP and prepare a corresponding environmental impact statement (EIS) on May 7, 2008 (73 FR 25665), and held five scoping meetings in 2008 (73 FR 37932, July 2, 2008; 73 FR 53407, September 13, 2008). During scoping, NMFS also consulted with the HMS Advisory Panel in October 2008 (73 FR 53407, September 13, 2008), the five Regional Fishery Management Councils on the east coast, and the Atlantic States and Gulf States Marine Fisheries Commissions. NMFS also presented information at a bycatch reduction workshop that was held by the Gulf and South Atlantic Fisheries Foundation. In February 2009, NMFS presented the Predraft of Amendment 3 to the HMS Advisory Panel (73 FR 67135, November 13, 2008).

In addition to potential measures to address overfished stocks and to end overfishing, during the scoping process, NMFS identified the need to add smooth dogfish into the management unit to provide for conservation and management of the species. Smooth dogfish was previously included as an HMS in a fishery management unit (FMU) that included deepwater and other sharks in order to prevent finning. These species were removed from the FMU in the 2003 Amendment 1 to the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks since they were protected from finning under the Shark Finning Prohibition Act (67 FR 6124, February 11, 2002). As described below, based on comments and other reasons, NMFS has determined that conservation and management of smooth dogfish under the Magnuson-Stevens Act are warranted for several reasons including the need to collect data regarding the fishery, fishing effort, and life history of the species.

Based in part on the comments received during scoping and from the HMS Advisory Panel on the Predraft, NMFS evaluated a full range of alternative management measures for blacknose sharks, SCS, shortfin mako sharks, and smooth dogfish within Amendment 3 (74 FR 36706 and 74 FR 36892). The details of what NMFS proposed and the alternatives considered are described in the proposed rule and DEIS, which included Draft Amendment 3. Those documents are incorporated by reference and their description of management and conservation measures considered at the DEIS and proposed rule stage are not repeated here. In the proposed rule, NMFS announced nine public hearings from New Hampshire to Louisiana, and set a deadline for the public comment period, which was to end on September 22, 2009. On August 10, 2009, the comment period was extended to September 25, 2009 (74 FR 39914), to accommodate two public hearings scheduled on September 22, 2009, and the New England Fishery Management Council meeting that was scheduled from September 22 through 24, 2009. The draft Amendment 3 was presented to the South Atlantic (74 FR 44352), Mid-Atlantic (74 FR 34556), Gulf of Mexico (74 FR 36669), Caribbean (74 FR 40168), and New England (74 FR 45821) Fishery Management Councils. The draft Amendment 3 was also presented to ASMFC in August 2009. NMFS received a number of oral and written comments on the proposed rule. The significant comments and NMFS' responses are summarized below under the section labeled "Response to Comments."

NMFS prepared an FEIS that discussed the direct, indirect and cumulative impacts on the quality of the human environment as a result of the preferred management measures identified for Amendment 3. The FEIS, including the final actions identified for Amendment 3, was made available in March 2010 (75 FR 13275, March 19, 2010). On May 18, 2010, the Assistant Administrator for NOAA signed a Record of Decision adopting Final Amendment 3 to the 2006 Consolidated HMS FMP. Final Amendment 3 was comprised of the preferred alternatives identified by NMFS in the FEIS. A copy of the FEIS, including final Amendment 3, is available from NMFS (*see* **ADDRESSES**). As described in the FEIS and the responses to comments below, and based in part on the public comments, NMFS made a number of changes to the preferred alternatives between the DEIS and FEIS. Corresponding changes were made, where appropriate, to Draft Amendment 3 and the Proposed Rule resulting in Final Amendment 3 and this final rule. The specific changes are described below in the section titled "Changes from the Proposed Rule." In brief, the final management measures implemented in this rule are: implement a non-blacknose SCS annual quota of 221.6 mt dw; implement a blacknose shark annual quota of 19.9 mt dw; take action at the international level to end overfishing of shortfin mako sharks; promote in the domestic fishery the release of shortfin mako sharks brought to commercial and recreational fishing vessels alive; add smooth dogfish to the HMS management unit; establish a smooth dogfish annual quota of 715.5 mt dw; require that smooth dogfish fins remain attached to the carcass through offloading; require commercial and recreational fishermen to obtain a permit authorizing landings of smooth dogfish caught in or transported through Federal waters; and make several administrative changes clarifying, correcting, and updating the regulations, as described in the proposed rule. Amendment 3 also finalized a mechanism for determining annual catch limits (ACLs) and establishing accountability measures (AMs) for the Atlantic shark fisheries managed in the 2006 Consolidated HMS FMP and its amendments.

In this rule, NMFS is placing both smooth dogfish and the Florida smoothhound into the 'smoothhound complex.' NMFS intends this name change to minimize any confusion with spiny dogfish regulations. Both smooth dogfish and the Florida smoothhound, which, as described in Amendment 3, are likely the same species, are found in the smoothhound family (*Triakidae*) and are the only members of the smoothhound family that are found on the Atlantic coast (there are other smoothhound sharks found in the Pacific Ocean). Spiny dogfish, which have been managed by the Mid-Atlantic Fishery Management Council (MAFMC) and New England Fishery Management Council (NEFMC) since the early 1990s, is often referred to as 'dogfish' and is found in the dogfish family (*Squalidae*). Thus, referring to 'smoothhound' in the regulations and requiring a smoothhound permit, rather than a smooth dogfish permit, should help in the long term to eliminate any confusion that might be caused by having two 'dogfish' species and permits. NMFS expects some confusion in the short term as fishermen adjust to the use of a new term in the regulations. However, because common names of fish are often different in different regions (*e.g.,* striped bass and rockfish), NMFS does not expect this confusion to last long.

The effectiveness of all the smoothhound management measures in Final Amendment 3 and associated implementing regulations included in the final rule will be delayed until the start of the 2012 fishing season for smooth dogfish (approximately April 1, 2012), pending approval for the data collection requirement under the PRA by OMB. NMFS is delaying implementation of those measures to provide time for affected fishermen to change business practices, particularly as it relates to keeping the fins attached to the carcass through offloading, and to provide time for implementing a permit requirement. NMFS is also delaying implementation to provide additional time to complete a smooth dogfish

biological opinion under Section 7 of the Endangered Species Act (ESA). NMFS will announce in a separate notice how to obtain a permit and any other relevant details regarding implementation of these or other smoothhound measures.

During the comment period for the proposed rule, NMFS received many questions regarding the impetus for managing smooth dogfish. Over the course of this rulemaking process, a number of stakeholders have indicated, either in conjunction with or independent of this rulemaking, that management of smooth dogfish is necessary. These include environmental organizations that have specifically requested management action, the Atlantic States Marine Fisheries Commission (ASMFC) that included smooth dogfish in its management unit when finalizing its Interstate FMP for Coastal Sharks, and the Mid-Atlantic Fishery Management Council (MAFMC) that specifically requested management authority to manage the smooth dogfish fishery. Also, based on existing data, it is apparent that the smooth dogfish fishery is substantial, and requires sound science-based conservation and management to provide for the long-term sustainable yield of the stock. The smooth dogfish fishery has significant annual landings when compared with other shark fisheries and has a large directed component. Previous experiences with shark fisheries and shark biology have indicated that sharks in general are vulnerable to stock collapse in the face of unrestricted fishing. Thus, adding the species to the FMU now to begin collecting data is appropriate. Additionally, the vast majority of the smooth dogfish catch occurs with gillnets. Some gillnet fisheries in the Atlantic are defined as Category I fisheries under the Marine Mammal Protection Act (MMPA), meaning the annual mortality and serious injury of one or more marine mammal stocks in a given fishery is greater than or equal to 50 percent of the Potential Biological Removal (PBR) level. While all fisheries need to comply with the requirements of the MMPA regardless of their management status, it is more efficient and predictable to ensure the affected fishermen are engaged in the process if their fishery is consistently managed in accordance with uniform conservation and management measures developed and implemented through an FMP in accordance with the procedures in the Magnuson-Stevens Act. Lastly, the smooth dogfish market could overlap with that of spiny dogfish, which is a species that is Federally-managed with a significant directed fishery. Spiny dogfish required restrictive management measures in the late 1990s and early 2000s to deal with domestic overfishing. While domestically spiny dogfish stocks appear to be healthy, other stocks are overfished internationally. Because of the possible overlap in markets, NMFS is concerned that smooth dogfish products can be used as a substitute for spiny dogfish products. If there is market overlap, then declines in spiny dogfish stocks (as have been seen internationally) and restrictive management measures (including domestic management) could push, or might have already pushed, effort into the smooth dogfish fishery. Until initial management measures are in place to collect data concerning location, effort, and the status of the stock, NMFS will not be able to determine whether further or different conservation and management measures through future FMP amendments and/or regulatory changes are necessary due to the influence of the foregoing and other relevant factors. For the foregoing reasons, NMFS has determined that the smoothhound fishery is in need of conservation and management, and that the species is suitable for management as a highly migratory species by the Secretary in accordance with his authority over Atlantic HMS set forth in Sections 302(a)(3) and 304(g) of the Magnuson-Stevens Act.

Response to Comments

A number of individuals and groups provided comments on the proposed rule during the comment period in writing or at public hearings. All written comments can be found at *http://www.regulations.gov*. The comments received resulted in numerous changes, as described below in the Changes from the Proposed Rule section. Significant comments are summarized below by major topic together with NMFS' responses. There are eight major issues: SCS commercial quotas, commercial gear restrictions, commercial pelagic shark effort controls, recreational measures for SCS, recreational measures for pelagic sharks, smooth dogfish, general comments, and economic comments. The first major issue, SCS commercial quotas, has the following sub-issues: science/stock assessment, shrimp trawls and working with the Regional Fishery Management Councils, and quota alternatives. The comments are numbered consecutively, starting with 1, at the beginning of each major issue.

A. SCS Commercial Quotas

1. Science/Stock Assessment

Comment 1: NMFS received comments regarding the average weights used for blacknose sharks. Commenters noted that the blacknose shark stock must be healthy, since blacknose sharks of various sizes are being landed across all fisheries. In addition, the Gulf of Mexico Fishery Management Council (GMFMC) commented that the average size of blacknose shark landed in the recreational fishery weighed only 1.5 lb dressed weight (dw), which corresponds to a fish less than two feet long, and therefore it appears that this data is incorrect. The recreational catches included only landed sharks. However, released blacknose sharks make up a substantial proportion of the total recreational catches, in some years exceeding landings. In other stock assessments, a release mortality percentage is applied to the releases reported in Marine Recreational Fishing Statistics Survey (MRFSS) to account for recreational dead discards. Leaving recreational dead discards out may result in erroneous assessment results.

Response: NMFS recognizes that blacknose sharks of various sizes are caught in the SCS fishery, and that the average weight for recreationally-caught blacknose sharks, which is the best available data from MRFSS, may be underestimated. However, only recreational landings and discard data were used in the stock assessments; average weights in the recreational fishery were not used in the 2007 SCS and blacknose shark assessments. In order to estimate recreational landings and dead discards for the stock assessment, NMFS used data from three recreational surveys (MRFSS, the NMFS Headboat Survey, and the Texas Parks and Wildlife Department Recreational Fishing Survey). NMFS also used MRFSS to estimate blacknose shark average weights, and NMFS realizes that an average weight for recreationally-caught blacknose sharks of less than 2 lb dw reflects a small juvenile shark, but this average weight of blacknose sharks is the best available data from MRFSS. Recent data from the Southeast Fisheries Science Center (SEFSC) has shown that the average size of blacknose sharks caught in gillnets is 18.7 lb dw, as opposed to the 14.4 lb dw that was used in the Draft Environmental Impact Statement (DEIS) analysis. Based on this updated average weight, NMFS has modified the average weight of blacknose sharks across all commercial gear types to 6.4 lbs, as opposed to 5.4 lbs used in the DEIS. Consistent with 40 CFR 1503.4(2) and (3), NMFS responded

to this comment in the DEIS, improved its analysis of blacknose mortality rates, and developed, identified, and evaluated a new A6, which would set the SCS quota at 221.6 mt dw and the blacknose quota at 19.9 mt dw. The preferred alternative in the DEIS was A4.

Comment 2: Several commenters had questions on where the research for the stock assessments occur, who does the assessments and research, what data goes into the assessments, and whether the assessments considered the Atlantic Large Whale Take Reduction Plan regulations.

Response: The 2007 Southeast Data, Assessment, and Review (SEDAR) SCS stock assessment was organized around three workshops. All workshops are open to the public to ensure the assessment process is transparent. The first is a Data Workshop, during which fisheries monitoring, life history data, catch data and indices of abundance from both fishery independent and fishery dependent sources are reviewed and compiled. The report of the Data Workshop provides all sources of data and research that was conducted and included in the stock assessment. The data reviewed at this workshop includes fishery dependent data (*e.g.,* fishermen, dealer and observer reports), fishery independent data (*e.g.,* scientific surveys), and scientific data regarding the biology of the species. Participants of the Data Workshop reviewed over 20 individual catch indices along with other data regarding catches and biological information. Current and historical regulations such as the Atlantic Large Whale Take Reduction Plan regulations and the Atlantic HMS regulations are summarized for consideration by the participants in the stock assessment. The scientists realize that management can affect fisheries monitoring, and data collection and work to account for these impacts when finalizing the data to be used in the assessment models. The explanation of the process for conducting the stock assessment is provided in Chapter 3 of the FEIS.

Comment 3: Fishermen are not fishing for sharks, including blacknose sharks, anymore since it is not profitable. NMFS could be misinterpreting this decline in effort as population declines. Shark catches are just incidental catches and occur only in the Tortugas.

Response: NMFS recognizes that effort has decreased in the shark fisheries in terms of the number of boats and in the number of sets, but notes that there are several fishermen in the Atlantic, GOM and Caribbean who still fish for sharks in both directed and incidental manners. In order to account for this decreased effort, NMFS uses a weighted average of effort and landings when conducting data analysis. This provides a better understanding of the catch-per-unit effort of the active vessels in the fishery. Furthermore, the SEDAR stock assessment process uses fishery-independent data in the analysis. This type of data is generally immune to, and helps correct for, changes in fishing effort.

Comment 4: NMFS received several comments stating that the SEDAR 13 2007 SCS stock assessment is not the "best available science." Commenters noted concerns over certain data issues, the use of trawl data before and after TEDs were required, modeling assumptions, and management choices described in the stock assessment. One commenter stated that while he has advocated closing the shark gillnet fishery, he is concerned that NMFS is using suspect data to justify what would otherwise be a good outcome. Other commenters noted that shark stock assessments for various species tend to move the species assessed from overfished to healthy and then from healthy to overfished frequently. Many commenters felt that NMFS should wait for the new stock assessment and should not implement new quotas or other regulatory changes for blacknose sharks based on the 2007 assessment.

Response: NMFS used the best available science and a rigorous SEDAR stock assessment process to make the determination that blacknose sharks are overfished with overfishing occurring. The independent review panel determined that the data used in the SCS stock assessment were considered the best available at the time. They also determined that appropriate standard assessment methods based on general production models and on age-structured modeling were used to derive management benchmarks given the data available. Therefore, NMFS believes that the 2007 SCS stock assessment represents the best available science and is not considering delaying implementation of management measures until the next stock assessment is completed. Under Section 304(e) of the Magnuson-Stevens Act, as implemented by the NS1 Guidelines, if a stock is overfished, NMFS is required to "take remedial action by preparing an FMP, FMP amendment, or proposed regulation * * * to rebuild the stock or stock complex to the MSY level within an appropriate time frame" (50 CFR 600.310(e)(3)(ii)).

Additionally, "in cases where a stock or stock complex is overfished, [the] action must specify a time period for rebuilding the stock or stock complex that satisfies the requirements of section 304(e)(4)(A) of the Magnuson-Stevens Act." Therefore, consistent with the results of the 2007 SCS stock assessment results, the 2006 Consolidated HMS FMP, the Magnuson-Stevens Act, and the NS1 Guidelines, NMFS is implementing final management measures to end overfishing and rebuild blacknose sharks, while providing an opportunity for the sustainable harvest of the other sharks in the SCS complex. The discussion of the SEDAR stock assessment process is included in Chapter 3 of the FEIS. NMFS believes that the assessment remains the best scientific data available at this time and the agency is required by National Standard 2 to utilize this information.

Comment 5: The stock assessment should not have combined the two blacknose shark stocks found in the Gulf of Mexico region and the Atlantic coast region. The problem arises with the differences caused by a lack of migration movement between regions and the annual breeding cycle of the Gulf of Mexico stock coupled with the biennial breeding cycle of the Atlantic stock of mature female blacknose sharks. NMFS scientists should model them as two separate stocks and not one. Additionally, because of differences in life history parameters, blacknose sharks in the western North Atlantic should be managed separately from those in the Gulf of Mexico.

Response: In the 2007 SCS stock assessment, the assessment scientists considered the issue and determined that blacknose sharks should be assessed as one stock. The scientists noted that there was conflicting genetic data regarding the existence of two separate stocks, and the potential differences in the reproductive cycle for South Atlantic and Gulf of Mexico populations. As a result, the assessment used an average reproductive cycle of 1.5 years (the average between reproductive cycles of one year in the Gulf of Mexico and two years in the South Atlantic region). Also, reproductive scenarios were conducted during the stock assessment to determine the effect of different reproductive cycles on the stock status. Under both reproductive scenarios, the overall stock status of blacknose sharks did not change. Thus, the reviewers and assessment scientists agreed that the base case scenario of a 1.5-year reproductive cycle was appropriate for the assessment. Because it was determined that blacknose sharks are one stock, NMFS plans on implementing regulations to rebuild the blacknose shark stock for the South

Atlantic and Gulf of Mexico together. The discussion of the SEDAR stock assessment process is included in Chapter 3 of the FEIS and adequately addressed this issue. NMFS believes that the assessment remains the best scientific data available at this time and the agency is required by National Standard 2 to utilize this information. NMFS has determined that the existing analysis is adequate. As such, changes were not made in the FEIS or the final rule in response to this comment.

Comment 6: Commenters had questions on why the SCS stock assessment only included data up to 2005 and on the catch rate data from the trawl survey over the last 30 years.

Response: The data used in the 2007 SCS stock assessment includes data up to 2005, which was the most current year of data available at the time the SEDAR Data Workshop was held in February of 2007. Full descriptions of the data used in the 2007 blacknose stock assessment to estimate blacknose bycatch in the GOM are in SEDAR13–DW–31 and SEDAR13–DW–32. Both papers are available on the SEDAR Web site at *http://www.sefsc.noaa.gov/sedar/Sedar_Documents.jsp?WorkshopNum=13&FolderType=Data.* As outlined in the Final SEDAR 13 SCS Report, the blacknose shark bycatch in the South Atlantic was calculated as a proportion of the Gulf of Mexico bycatch. As for the data from the Southeast Area Monitoring and Assessment Program (SEAMAP), six "time series" were used to estimate blacknose shark bycatch in the shrimp trawl fisheries. These were the fall time series Fall Groundfish (FG) 1972–1986, First Fall (FF) 1987, Fall SEAMAP (FS) 1988–2006; and the summer time series Summer SEAMAP (SS) 1987–2006, Early SEAMAP (ES) 1982–1986, and Texas Closure (TC) 1981. The SEAMAP surveys did not utilize TEDs. However, shrimp trawl observer data from 1972–2005 also were used to estimate blacknose bycatch in the shrimp trawl fisheries and shrimp trawl effort data for the Gulf of Mexico and the South Atlantic from 1972–2005 were also used in the SEDAR 13 assessment. The discussion of the SEDAR stock assessment process is included in Chapter 3 of the FEIS. It discloses the data sources that existed at the time of the stock assessment. NMFS believes that the assessment and the data upon which it relied remains the best scientific data available at this time. The agency is required by National Standard 2 to utilize this information. NMFS has determined that the existing data and analysis are adequate. Therefore, no changes were made in the FEIS or final rule in response to this comment.

Comment 7: Will the next blacknose shark assessment be a benchmark or update? The protocol of the shrimp observer program seems to be reporting just shark groups, not species specific reporting. NMFS should follow up on this through the observer program.

Response: Since the 2007 stock assessment, NMFS and industry scientists have been developing different models for analyzing the shrimp trawl data. Because the new models, which currently have not been peer reviewed, would be a change in methodology from the 2007 stock assessment, the next blacknose shark assessment will be a benchmark assessment. The Data Workshop for this assessment, which will also assess sandbar and dusky sharks, will take place in summer 2010. NMFS is currently working with the shrimp observer program to increase species specific shark data reporting.

Comment 8: NMFS received comments regarding the survival of blacknose sharks that stated that blacknose sharks are alive at the boat and will survive if released. NMFS also received comments that disputed the reduction of blacknose catches.

Response: A review of the data from the 2005–2008 Shark Gillnet Observer Database, which reported the number of sharks caught in the gillnet fishery during observed trips, detailed the disposition of the sharks caught in gillnets. From this data, the number of sharks that were landed and kept, landed alive and released, and landed dead and discarded was determined. Based on this data, NMFS has changed the mortality rate for discards to 80 percent instead of 100 percent that was used in the DEIS. Although catch rates may remain unchanged, a stock may show signs of stress through changes in average size towards smaller individuals, or to increasingly larger numbers of younger individuals in the stock. While there has not been a reduction in blacknose shark commercial landings, based on the most current stock assessment, the blacknose shark stock has been determined to be overfished, with overfishing occurring. For this reason, NMFS has decided to implement management measures to rebuild this overfished stock and to end overfishing. Based on this comment, NMFS modified the FEIS by adjusting the mortality rates based on observer coverage and made conforming changes in the Final Amendment 3 and this final rule.

2. Shrimp Trawls and Working With the Regional Fishery Management Councils

Comment 9: NMFS received many comments regarding the blacknose shark mortality related to the Gulf of Mexico shrimp trawl fisheries. The State of Louisiana agrees that the majority of the reported blacknose shark mortality comes as bycatch from the Gulf of Mexico shrimp trawl fishery, but notes that the effort in this fishery has been reduced from 2005 due to hurricanes Katrina and Rita and fuel prices. The GMFMC and others also commented that the Gulf of Mexico shrimp trawl bycatch portion of blacknose shark mortality (45 percent) seems high. Specifically, these commenters note that shrimp fishing effort in 2005 in areas where red snapper are abundant was reduced by 50 to 60 percent from 2001–2003 periods and was reduced by approximately 65 percent in 2006. It was further reduced in 2007 and 2008 by approximately 75 percent. The number of vessels participating in the offshore shrimp fishery is expected to continue declining until at least 2012, and has been further reduced by the impacts of hurricanes Katrina and Rita. With time/area closures, the shrimp trawl effort is unlikely to rebuild to its prior historical levels. As a result, basing blacknose shark mortality rates by gear type using the years 1999–2005 may produce anomalous results that are not representative of long term trends. Those estimates should be recalculated using more recent years or a longer time series of years. All of these comments stated that NMFS should update their mortality figures utilizing current offshore Gulf of Mexico shrimp trawl effort data.

Response: NMFS would like to thank the State of Louisiana and the GMFMC for their comments. NMFS is working with the GMFMC, and agrees that blacknose shark mortalities have dropped significantly due to decreased effort in the shrimp trawl fishery in the Gulf of Mexico. NMFS also recognizes that the impacts from hurricanes, and other events, in recent years may have affected effort or landings data. Effort in the Gulf of Mexico shrimp fishery has decreased 64 percent from the average effort across the entire Gulf of Mexico in 1999–2005 compared to effort in 2008 (James Nance, NMFS SEFSC pers. comm.). Although an analysis of the spatial/temporal distribution of this reduction relative to the distribution of blacknose shark bycatch has not been conducted, a starting assumption could be that this equates to a commensurate 64 percent reduction in bycatch.

Modeling efforts are ongoing that incorporate a TED effect in the bycatch estimation model. Preliminary analyses utilizing the new modeling technique indicate that bycatch may have been reduced by approximately 50 percent in 1999–2005. When bycatch reductions from the effort reduction of 64 percent are combined with an approximately 50-percent bycatch reduction anticipated from the TED effect, a preliminary estimate of the overall reduction is approximately 82 percent from 1999–2005 levels. Full results will be provided once the study is complete. The uncertainty is not fully defined in these preliminary bycatch estimates, and there may be spatio-temporal differences in bycatch trends. More data and further analyses are required to determine any uncertainty in the estimates and to re-evaluate the status of the blacknose shark stock. The next assessment is scheduled for 2010, and NMFS will re-visit shrimp bycatch and shrimp trawl effort at that time. Since the modeling data, analyses and conclusions are preliminary and have not been peer reviewed, they were not available for use in the FEIS or in this final rule. NMFS believes that the 2007 SCS assessment and the data upon which it relied with respect to bycatch in the shrimp trawl fisheries remains the best scientific data available at this time. The agency is required by National Standard 2 to utilize this information. NMFS has determined that the existing data and analysis are adequate. Therefore, no changes were made in the FEIS or this final rule in response to this comment.

Comment 10: NMFS received comments regarding the Georgia Bulldog trawl video and the ability of blacknose sharks to go through TEDs. Several commenters expressed skepticism that blacknose sharks could fit through the four inch bar spacing of a TED. Other commenters asked about the species of shark in the video and whether they went through the TED.

Response: The SEFSC's video footage of TEDs in shrimp trawls shows sharks and protected resources (*e.g.,* sea turtles) being excluded from shrimp trawls using TEDs with less than 4-inch bar spacing. The video footage was taken from a shrimp trawler, the R/V Georgia Bulldog, off the coast of Georgia, within 10 miles of shore, in water depths less than 40 feet. The footage shows that some small sharks (blacknose, bonnethead, and Atlantic sharpnose), as well as various other finfish, can pass through the TEDs and into the codend of the trawl; NMFS has not conducted any analysis on the bycatch at this time (*e.g.,* bycatch was not identified to species, length measurements were not taken). The video is not appropriate for detailed analysis of the TED impact on catch and bycatch, but rather serves as a starting point because it shows that sharks do make it through this bycatch reduction device technology. The discussion and analysis of SCS bycatch in the shrimp trawl fisheries used in the 2007 SCS stock assessment remains the best scientific data available at this time. The agency is required by National Standard 2 to utilize this information. NMFS has determined that the existing data and analysis are adequate. Therefore, no changes were made in the FEIS or this final rule in response to this comment.

Comment 11: NMFS received numerous comments regarding the bycatch of blacknose sharks in shrimp trawl fisheries. Commenters suggested that NMFS should study potential ways to reduce bycatch of blacknose sharks and other species in trawl fisheries, including gear modifications, gear restrictions, or time-area closures and implement measures to reduce this bycatch. In addition, NMFS received comments that NMFS should work together with Regional Fishery Management Councils to reduce the bycatch of blacknose sharks in the shrimp trawl fisheries and to ensure ACLs and AMs are set for fisheries that catch blacknose sharks in order to limit the significant mortality in the shrimp fisheries.

Response: NMFS is working with the Gulf of Mexico and South Atlantic Fishery Management Councils to establish bycatch reduction methods, as appropriate, to reduce blacknose shark mortality in the shrimp trawl fisheries. In addition, NMFS SEFSC has been working with industry scientists to re-evaluate the shrimp bycatch models used in the 2007 SCS stock assessments. In particular, they have been evaluating the effect of TEDs on SCS bycatch in shrimp trawls. NMFS continues to monitor and evaluate bycatch in HMS fisheries through the pelagic longline (PLL), bottom longline (BLL), and gillnet observer programs, and evaluation of management measures such as closed area trip limits, and gear modifications. Because the Gulf of Mexico and South Atlantic Fishery Management Councils manage the shrimp trawl fisheries, NMFS is only implementing measures in this amendment to reduce the landings and discards in Atlantic shark fisheries. Regulatory changes to the shrimp trawl fisheries in the South Atlantic and Gulf of Mexico regions would be done through the Council process in those regions. This amendment includes a mechanism to specify ACLs for stock complexes, including the SCS complex, and certain specific shark species as well as identify AMs, consistent with the Magnuson-Stevens Act requirements to establish a mechanism for specifying ACLs and AMs at a level that will prevent overfishing. The regulations necessary to adjust ACLs as needed and to apply AMs are currently in place. The DEIS explained NMFS' approach to reducing bycatch by working with the Regional Fisheries Management Councils responsible for those fisheries. In addition, NMFS has committed to ongoing monitoring and future evaluation of this issue. That discussion is included in Chapter 1 of the FEIS.

Comment 12: Some commenters noted that the shrimp industry has mandated TEDs and other bycatch reduction devices, and ask if there are other shrimp trawl bycatch reduction measures that can be implemented.

Response: NMFS agrees that the mandating of TEDs and other bycatch reduction devices have aided in the reduction of blacknose shark catches and other protected resources. Currently, NMFS is working with the GMFMC, South Atlantic Fishermen Management Council (SAFMC), and the shrimp industry to look at other ways to decrease the shark bycatch in the shrimp fishery. For the reasons stated in response to comment 11, NMFS did make changes in the FEIS based on this comment.

3. Quota Alternatives

Comment 13: NMFS should implement alternative A1, which calls for no action to the SCS commercial quota. This alternative is appropriate given the concerns on the science for blacknose and the range of alternatives. The Atlantic Large Whale Take Reduction Plan (ALWTRP) regulations eliminate gillnet fishing for 5 months a year (November to April), which should be positive for blacknose sharks. When the fishery opens in April and May, the blacknose sharks are within State waters, therefore, NMFS should not change anything and stay with the 5 month ALWTRP closure.

Response: The results of the 2007 SCS stock assessment determined that, despite the ALWTRP, blacknose sharks are overfished and overfishing is occurring. The assessment recommended a blacknose shark specific TAC and a corresponding rebuilding timeframe. One objective of this rulemaking is to ensure that fishing mortality levels for blacknose sharks are maintained at or below levels that would result in a 70 percent probability of rebuilding in the timeframe

recommended by the assessment. Under the Magnuson-Stevens Act, as implemented by the NS1 Guidelines, if a stock is overfished, NMFS, in addition to taking action to propose and implement measures to end overfishing, is required to "take remedial action by preparing an FMP, FMP amendment, or proposed regulation * * * to rebuild the stock or stock complex to the MSY level within an appropriate time frame" (50 CFR 600.310(e)(3)(ii)). NMFS chose not to select the status quo alternative as the preferred alternative because it does not end overfishing or implement a rebuilding plan for overfished stocks as required by the Magnuson-Stevens Act and NS1 Guidelines. Based on further analysis of new data and public comment, NMFS selected an SCS quota alternative in the FEIS that was different from the preferred SCS quota alternative in the DEIS. Specifically, NMFS selected alternative A6 in the FEIS which has a non-blacknose SCS quota of 221.6 mt dw and a blacknose shark quota of 19.9 mt dw because it implements quotas necessary to rebuild and end overfishing of blacknose sharks. The final action also allows the gillnet fishery to continue, thus mitigating some of the economic impacts that are expected and necessary in order to reduce fishing mortality as prescribed by the recent stock assessment. Thus, the final SCS quota and commercial gear alternatives strike a balance between positive ecological impacts that must be achieved to rebuild and end overfishing of blacknose sharks shark stocks while minimizing the negative economic impacts that would occur as a result of these measures.

Comment 14: NMFS received a number of comments indicating that gillnet fishermen can adapt their fishing techniques and gear to avoid catching blacknose sharks. Specific comments included: Did NMFS consider that fishermen can adapt and select on certain species?; gillnet fishermen can adapt to avoid catching blacknose sharks similar to how they reduced turtle and marine mammal bycatch; strikenet gear is a clean gear and can be modified to avoid blacknose sharks; it is possible to design gillnet gear to eliminate blacknose shark catches; and NMFS should set aside Amendment 3 or go with status quo until more gear research can be conducted.

Response: Due to this comment, NMFS reviewed the 2005–2008 Shark Gillnet Observer Data. Based on this analysis, NMFS agrees that fishermen may be able to adapt and specifically target some species while avoiding others. The percentage of blacknose sharks in the catch from gillnet trips that were targeting other species were: 2.6 Percent from 5 trips that targeted blacktip sharks, 1.4 percent from 17 trips that targeted Atlantic sharpnose sharks, 8.3 percent from 6 trips that targeted bonnethead sharks, and 3.9 percent from 118 unspecified shark trips. NMFS used this information to re-analyze the SCS quota and commercial gear alternatives. Based on this analysis and public comment, NMFS selected alternative A6, which is a new alternative and would have a non-blacknose SCS quota of 221.6 mt dw and a blacknose shark quota of 19.9 mt dw. In addition, NMFS chose not to prohibit gillnet gear as an authorized gear type and selected the commercial gear alternative to B1, the No Action alternative. If in subsequent analysis the data shows that shark fishermen have been able to avoid catching blacknose sharks, NMFS will re-evaluate the landings data, and increase the quota for non-blacknose SCS, blacknose sharks, or both. However, if a re-evaluation of the data shows that fishermen have not been able to minimize blacknose shark mortalities, then NMFS reserves the right to decrease either, or both, quotas. In response to this comment, NMFS modified the FEIS to include the identification and selection of preferred alternatives that would establish blacknose and non-blacknose SCS quotas and continue to allow the use of gillnets as authorized gear for harvesting all Atlantic sharks. The changes to the final rule are discussed in more detail below.

Comment 15: NMFS received numerous comments on the proposed non-blacknose SCS quota. Several commenters were concerned that the non-blacknose SCS quota was too low particularly since these species stocks are healthy and are a viable alternative for fishermen. The low quota could result in high regulatory discards. The State of North Carolina noted that if NMFS reduced the non-blacknose SCS quota, North Carolina fishermen will be disproportionately impacted by this regulation by removing fair and equitable distribution of SCS quota and implementing measures contrary to measures in State waters. The State of South Carolina noted that the proposed quota of 56.9 mt dw for small coastal sharks will result in a 76 percent reduction in the landings of finetooth, Atlantic sharpnose and bonnethead sharks in the shark fishery. As such, this reduction in the quota for these three species would seem unwarranted at this time. Additionally, this proposed reduction will have significant repercussions among South Carolina's permitted commercial fisherman who landed 10 mt dw of these three species in 2008 or nearly 17 percent of the proposed quota for the Atlantic, Gulf of Mexico and Caribbean fisheries, combined. In addition, the small quota is likely to be reached and the fishery closed before South Carolina fishermen have an opportunity to land their traditional catch. For these reasons, NMFS should implement alternative A2 in combination with the gillnet prohibition, alternative B3.

Response: NMFS recognizes that the status of non-blacknose SCS is not overfished and not experiencing overfishing. In the DEIS, the preferred alternative, A4, would have set the commercial quota for non-blacknose SCS sharks at 56.9 mt dw, and the blacknose shark quota at 14.9 mt dw. Due to recent data updates, analysis, and public comments, NMFS has changed the preferred alternative from A4 in the DEIS to A6 in the FEIS, which would set the commercial quota for non-blacknose SCS at 221.6 mt dw and the blacknose shark quota at 19.9 mt dw. The final non-blacknose SCS quota sets the commercial quota equal to the average non-blacknose sharks SCS landings from 2004 through 2008 and therefore would not have economic impacts beyond the status quo. By looking at the recent Gillnet Observer Data from 2005–2008, NMFS agrees that it appears that commercial shark fishermen can target non-blacknose sharks and avoid catching blacknose sharks. If subsequent reviews of the management measures implemented under alternative A6 indicate that commercial shark fishermen are able to minimize their catch of blacknose sharks, NMFS could increase the non-blacknose SCS quota to allow for greater access to these species. Also, any underharvest of the non-blacknose SCS quota from the previous year could be added to the quota the following year, because all of the shark species in this complex (Atlantic sharpnose, finetooth and bonnethead) are not overfished and overfishing is not occurring. NMFS recognizes that there may be a high mortality rate for the blacknose sharks released from the various gears used in the SCS fishery. NMFS is attempting to limit the discard mortalities of blacknose sharks in the SCS fishery associated with the proposed SCS quota, by allowing the commercial shark fishermen to retain the number of sharks equal to the average landings of blacknose sharks from all gears based on the 2004–2008 Coastal Fisheries Logbook and Shark Gillnet Observer Data. In response to this comment,

NMFS made the foregoing changes to the FEIS and this final rule including the selection of an alternative to establish a non-blacknose SCS quota at 221.6 mt dw and allow continued use of gillnet as authorized gear for harvesting SCS. Changes to the final rule are discussed in more detail below.

Comment 16: NMFS received several comments specific to the quota levels for blacknose sharks. Comments suggest that NMFS should prohibit the retention of blacknose sharks by placing the species on the prohibited list. Other commenters suggested that the blacknose shark quota needs to be high enough to allow for the retention of incidental catch. The State of Georgia supports the quotas in alternative A4 with gillnet closure in alternative B3 as it will significantly reduce the impacts of regulatory discards of blacknose sharks, which would occur if the quota for blacknose sharks is reached before the non-blacknose SCS quota.

Response: NMFS agrees that the blacknose shark quota needs to be large enough for fishermen to keep blacknose sharks that are caught incidentally. As detailed in Chapter 4 and Appendix A, NMFS has changed the preferred alternative from A4 in the DEIS to A6 in the FEIS. Under alternative A6, the non-blacknose SCS (221.6 mt dw) and blacknose shark (19.9 mt dw) quotas would allow for incidental catch of blacknose sharks. Also, under alternative A6, both the blacknose and the non-blacknose fisheries would close when either the quota was reached or the catch was projected to reach 80 percent of the quota. This offers an incentive to avoid blacknose sharks and target non-blacknose SCS to ensure that the non-blacknose SCS fishery does not close with quota still available. NMFS considered closing the entire SCS fishery (alternative A5) however, the stock assessment did not warrant such action. Under the rebuilding plan, a limited number of blacknose sharks can be retained while still meeting rebuilding goals. Furthermore, once a species is placed on the prohibited list, fishery-dependent data on the species will cease to be reported and cannot be used in future stock assessments or management measure determinations. In response to this comment, NMFS made the foregoing changes to the FEIS and this final rule including the selection of an alternative to establish a blacknose SCS quota at 19.9 mt dw and allow continued use of gillnet as authorized gear for harvesting SCS. The DEIS already included an alternative to close the SCS fishery that would have prohibited the retention of blacknose sharks. Therefore, an additional alternative to list blacknose as a prohibited species was not added to the FEIS. Changes to the final rule as a result of this comment are discussed in more detail below.

Comment 17: NMFS received several comments regarding the overlap of the SCS gillnet fishery with other gillnet fisheries in the southeast region. Comments included: The NMFS proposal will force effort into other fisheries (*e.g.,* kingfish fishery) and this will fracture those other fisheries; NMFS needs to know the number of blacknose shark catches in the mackerel fishery and how that relates to the 22-percent mortality of blacknose shark by gillnets; if NMFS is taking the bulk of effort away, why not let mackerel fishermen keep blacknose sharks; NMFS should eliminate blacknose sharks landings and allow mackerel fishermen to land other SCS; and NMFS should collect data on discards in the mackerel fishery.

Response: NMFS recognizes that fishermen will adapt in different ways to new regulations placed on a fishery, which may include increasing their effort in other fisheries. NMFS plans to continue to collect the best available data from several sources including data on landings, discards, and bycatch. As this new data becomes available, regulation changes could be made that would provide fishermen access to resources that are ecologically and economically viable. Based on the most recent data, which indicates that gillnet fishermen may be able to avoid certain species, NMFS changed its preferred alternative from B3 in the DEIS, which would have eliminated gillnet gear as an authorized gear from South Carolina south, to B1 in the FEIS, the No Action alternative, which retains gillnet as an authorized gear in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. Also, under the selected alternative, A6, incidental catches of blacknose sharks will continue to be allowed. In response to this comment, NMFS made changes to the FEIS including the development of a preferred alternative that establishes a blacknose quota at 19.9 mt dw and a non-blacknose SCS quota at 221.6 mt dw. The DEIS already considered an alternative to close the entire SCS fishery which would essentially prohibit retention of blacknose. Therefore, an additional alternative to list blacknose as a prohibited species was not added to the FEIS. The discussion of displacing effort from the shark fishery into other gillnet fisheries was included in the FEIS. NMFS made changes in preferred alternative from the DEIS to the FEIS based on this and similar comments and made conforming changes to this final rule. The changes to the final rule are discussed below.

Comment 18: NMFS needs to move blacktip sharks to the SCS quota and increase the quota for all SCS.

Response: NMFS is moving towards species-specific management, including species-specific quota. However, for some species NMFS has only limited data, which requires management to be based on species within a complex of species. The 2007 SCS stock assessment assessed the SCS complex as a whole as well as each species individually, and recommended using species-specific results rather than the aggregated SCS complex results. The assessment recommended a blacknose shark-specific TAC and a corresponding rebuilding timeframe. Therefore, based on these results, NMFS has removed blacknose sharks from the SCS quota and set a separate commercial quota for this species. A species-specific quota enables NMFS to closely monitor blacknose shark landings and fishing effort according to the rebuilding plan. Blacktip sharks are currently managed in the non-sandbar LCS complex implemented in Amendment 2 to the Consolidated HMS FMP. Blacktip sharks are more commonly caught with gear targeting LCS (*i.e.,* BLL gear) rather than gear used to target SCS (*i.e.,* gillnet gear). In addition, the blacktip shark stock assessment recommended that blacktip shark landings should not change or increase from historical catch levels. Placing blacktip sharks within the non-blacknose SCS quota could drastically reduce the blacktip shark regional quota since the non-blacknose SCS shark quota is being reduced in the preferred alternative from 454 mt dw (status quo) to 221.6 mt dw (alternative A6 in the FEIS). Therefore, at this time, NMFS is not placing blacktip sharks within the SCS complex. NMFS has determined that the comment proposes an action that does not meet the purpose and need set forth in the DEIS and FEIS and therefore did not include it as an additional alternative for evaluation in the FEIS.

Comment 19: NMFS stated that they want to help the U.S. fleet catch the entire tuna and swordfish quotas, so why is NMFS against SCS fisherman landing the SCS quota as appears to be the case in preferred alternative A4?

Response: In the DEIS, the preferred alternative A4, would have set the non-blacknose quota at 56.9 mt dw and the blacknose shark species-specific quota at 14.9 mt dw. Recent data, and the analysis of that data, has led NMFS to change the preferred alternative from A4 in the DEIS to A6 in the FEIS. With alternative A6, the preferred alternative

in the FEIS, selected, the non-blacknose SCS quota will be set at 221.6 mt dw, which is the average landings of non-blacknose SCS from 2004 through 2008. The blacknose shark species-specific quota will be set at 19.9 mt dw. These regulations are being implemented because the status of the blacknose shark stock has been determined to be overfished, with overfishing occurring. Also, any underharvest of the non-blacknose SCS quota could be added to the following year's fishing quota, since the stock status of finetooth, Atlantic sharpnose, and bonnethead sharks have all been determined to be healthy. Also, under alternative A6, both the blacknose and the non-blacknose fisheries would close when either the quota was reached or the catch was projected to reach 80 percent of the quota. This offers an incentive to avoid blacknose sharks and target non-blacknose SCS to ensure that the non-blacknose SCS fishery does not close with quota still available. These measures maximize the opportunity to harvest the healthy non-blacknose SCS while rebuilding and preventing overfishing on the blacknose shark stock. This comment did not target any specific section or issue analyzed in the DEIS and a specific change in the FEIS was not made. As mentioned, however, the preferred alternative for non-blacknose SCS quota in the DEIS has been adjusted in the preferred alternative in the FEIS to address this general concern. Conforming changes were made in this final rule. These changes are discussed below.

Comment 20: NMFS should save the SCS fishery. NMFS took the 4,000 lb LCS trip limit away and are now taking away blacknose sharks. Are there any proposals for buyouts for SCS fishermen?

Response: Currently, there are no proposals to buyout SCS fishermen. Buyouts can occur via one of the three mechanisms, including: Through an industry fee, via appropriations from the United States Congress, and/or through funds provided from any State or other public sources or private or non-profit organizations. A buyout plan is not proposed in this amendment because the Agency is unable to implement a buyout as a management option. Buyouts must be initiated via one of the aforementioned mechanisms.

Comment 21: We believe the reductions in the commercial quota and the elimination of the gillnet gear will have significant, positive effects. Based on estimates taken before 2007, your analyses determined that this fishery was responsible for 45 percent of the mortality on blacknose sharks. The Gulf of Mexico shrimp effort was reduced by 74 percent from the average effort of 2001–2003. Because of this action, the historic 46 percent take by the trawl fishery would have already been reduced to about 12 percent of the total take. This reduction should, in combination with reductions from quota and gear alternatives, drive the estimates of total reductions in take by numbers of blacknose shark to something in excess of 80 percent, a value well above the target of 78 percent.

Response: NMFS is working with the GMFMC, and agrees that blacknose shark mortalities in the shrimp trawl fishery have dropped significantly due to decreased effort in the shrimp trawl fishery in the Gulf of Mexico. Based on 2005–2008 Shark Gillnet Observer Data, NMFS believes that gillnet fishermen may be able to effectively target other SCS species while minimizing the mortality of blacknose sharks and protected species. Because of this analysis, NMFS has changed their preferred alternative from B3 in the DEIS, which would have eliminated gillnet gear from South Carolina south, to B1 in the FEIS, the No Action alternative, which would retain gillnets as an authorized commercial gear type for sharks. Based on this same data, and because of reductions in blacknose shark mortalities in the shrimp trawl fishery, NMFS has also changed the preferred quota alternative from A4 in the DEIS to A6 in the FEIS, which would create a non-blacknose SCS quota of 221.6 mt dw and a blacknose shark quota of 19.9 mt dw. Thus, due to updated data, analyses, and public comment, NMFS modified the FEIS quota and gear alternatives and made conforming changes to the final Amendment 3 and this final rule. The changes are discussed below.

Comment 22: In the Gulf of Mexico, it might be possible to reduce juvenile mortality of blacknose sharks by adopting for shark bottom longlines, on a seasonal basis, the existing reef fish longline boundary (20 fathoms east of Cape San Blas, Florida, 50 fathoms west of Cape San Blas). If this eliminates too much of the traditional shark fishing grounds to be acceptable, than perhaps the "stressed area" boundary, which varies from 10 to 30 fathoms, could be considered.

Response: NMFS considered closing waters inshore of 20 fathoms in the Gulf of Mexico to shark bottom longline gear as a way to reduce fishing pressure on neonate and juvenile blacknose sharks. The majority of the recorded interactions with neonate and juvenile blacknose sharks occur in waters inshore of 20 fathoms. Therefore, by closing waters inshore of 20 fathoms, NMFS would relieve fishing pressure on neonate and juvenile blacknose sharks. However, closing waters inshore of 20 fathoms could have a large, negative socioeconomic impact on the shark BLL fishery in the Gulf of Mexico, as the majority of BLL sharks sets observed from 1994–2007 occurred inshore of 20 fathoms. Given these potentially large, social and economic negative impacts, and the ability to rebuild blacknose sharks through other alternatives, NMFS did not further analyze this alternative in the FEIS. Similarly, NMFS considered closing the waters inshore of 50 fathoms in the Gulf of Mexico to shark BLL fishing, however, because this closure would cover more area and have larger socioeconomic impacts than a 20 fathom line closure, this alternative was not further analyzed in the FEIS.

B. Commercial Gear Restrictions

Comment 1: NMFS received numerous comments supporting the proposed alternative to ban gillnets in the shark fishery from South Carolina south (alternative B3). The SAFMC and MAFMC both expressed support for the proposal to ban shark gillnet gear. The State of Georgia supports banning gillnet and states that removal of shark gillnet gear is long overdue to reduce incidental take of sea turtles and marine mammals. Other commenters stated that banning gillnet gear would protect blacknose sharks, and reduce bycatch and protected resource interactions.

Response: NMFS would like to thank the SAFMC, MAFMC, and the State of Georgia for submitting comments in support of alternative B3. Based on the 2005–2008 Shark Gillnet Observer Program data, and comments from fishermen, NMFS believes that gillnet fishermen may be able to target other SCS species and minimize the mortality of blacknose sharks. For this reason, NMFS believes that banning gillnets as an authorized gear type is unwarranted at this time. NMFS would prefer to allow gillnet fishermen the opportunity to prove that they can target specific species, and avoid others. Therefore, NMFS changed its preferred alternative from B3 in the DEIS, which would have banned gillnets from South Carolina south, to B1 in the FEIS, the No Action alternative, which would retain all currently authorized gears in the shark fishery. The current regulations for gillnet fishermen, which include two-hour net checks and keeping nets attached to the boat, should continue to help reduce the incidental bycatch of other species. The bycatch and discards of blacknose sharks would be reduced by the implementation of a smaller non-

blacknose SCS and blacknose shark quota. The gillnet fishery in the southeast Atlantic Ocean is monitored by vessel monitoring systems (VMS) and has sufficient observer coverage. The VMS and observer coverage has helped protect endangered species like sea turtles and right whales. NMFS believes that allowing gillnet gear as an authorized gear for sharks is consistent with the 2008 Biological Opinion (BiOp) for the Atlantic Shark fishery. The 2008 BiOp was completed for Amendment 2 to the Consolidated HMS FMP which did not prohibit the use of gillnet gear. Therefore the BiOp was based on the continued use of gillnet gear in the Atlantic Shark fishery and concluded that the Atlantic shark fishery is not likely to jeopardize the continued existence of endangered green, leatherback, and Kemp's ridley sea turtles; the endangered smalltooth sawfish; or the threatened loggerhead sea turtle. Furthermore, the BiOp concluded that Amendment 2 was not likely to adversely affect any listed species of marine mammals, invertebrates (*i.e.,* listed species of coral) or other listed species of fishes (*i.e.,* Gulf sturgeon and Atlantic salmon) in the action area. NMFS believes that the significant social and economic impacts on the SCS commercial shark participants from prohibiting gillnet gear are disproportionate to the ecological benefits especially since the No Action alternative in combination with alternative A6 reduces blacknose shark mortality to levels consistent with the rebuilding plan for this species.

Comment 2: The gear restriction on the shark gillnets from South Carolina to the Gulf of Mexico and the severe quota reduction of SCS will be detrimental to the critical scientific data that is needed to properly manage this fishery.

Response: NMFS agrees that prohibiting shark gillnet gear would affect the scientific data that is used to manage the SCS fishery. Based on this and other public comments, as well as additional data analysis using updated blacknose shark weight data, NMFS changed its preferred alternative from B3 in the DEIS, which would have banned gillnets from South Carolina south, to B1 in the FEIS, the No Action alternative, which retains the current authorized gear types. NMFS feels that the scientific data collected from programs like the Shark Gillnet Observer Program provide an invaluable source of fishery dependent information that can augment fisheries independent data collected by NMFS scientists and help to inform fishery management decisions.

Comment 3: Contrary to popular beliefs, gillnet gear is the most selective way of fishing. Gillnet fishermen catch on average a 14.4 lb dw sexually mature blacknose shark that have spawned at least once. The 2008 BiOp stated that shark gillnet fishermen do not catch as many protected species as bottom longline fishermen. The Federal observer data has shown that 97.3 percent of our catch consists of sharks and 98.1 percent of the sharks caught were the targeted species. This gear is not having as big an impact on the stock because they are not catching juveniles. NMFS should consider a gillnet endorsement, not a preferred alternative that would close the fishery. In addition, the State of South Carolina commented that, although the retention of sharks taken by gillnets is already prohibited in their State waters, NMFS should be aware that South Carolina has licensed and permitted commercial fisherman who have historically fished for sharks with gillnets in Federal waters. These fishermen will certainly be impacted and possibly displaced from this fishery through adoption of this proposed action.

Response: In response to this and similar comments NMFS made the following changes between the DEIS and FEIS. In the DEIS, NMFS preferred alternative B3, which would have prohibited gillnets from South Carolina south, but due to recent data and new data analysis and public input, NMFS changed its preferred alternative in the FEIS to B1, the No Action alternative, which would retain gillnets as an authorized gear in the shark fishery. Based on recent data from the SEFSC, NMFS changed the average weight for blacknose sharks caught in gillnets from 14.4 lbs to 18.7 lbs in the FEIS. Also, NMFS re-analyzed the data from the 2005–2008 gillnet observer data. Those analyses showed that gillnet fishermen may be able to target other SCS species, and minimize the mortality of blacknose sharks. NMFS used this information to re-analyze the SCS quota alternatives in the FEIS. This resulted in NMFS changing the preferred alternative from B3 in the DEIS, which would have eliminated gillnet as an authorized gear in the shark fishery from South Carolina south, to B1 in the FEIS, the No Action alternative, which will retain all currently authorized gears for SCS, including gillnets. In addition, NMFS is still working with the GMFMC to determine the impacts that TEDs have on excluding blacknose sharks from the shrimp trawl nets. NMFS believes that the new preferred alternatives would not displace the South Carolina gillnet fishermen in Federal waters.

Comment 4: There are large areas and times when gillnet fishermen are not allowed to fish. There is already a large gillnet closure area due to State water closures and the ALWTRP regulations. NMFS should work with the few shark gillnet fishermen left to address issues in the few areas where gillnets are being used now. There are not many shark gillnet fishermen left in the industry, and everyone is a seasoned fishermen with over 20 years of experience.

Response: NMFS agrees that gillnet gear is prohibited in many places, such as the State waters of Florida and Georgia and Southeast Right Whale Calving Area. Also, NMFS agrees that there are not many gillnet fishermen who target sharks. There are still gillnet fishermen that catch sharks while targeting other species and some of those fishermen could target sharks. NMFS has gathered all of the comments from gillnet fishermen and re-evaluated the data on the average size of blacknose sharks caught in the gillnet fishery in the FEIS. Based on this analysis, NMFS changed the average weight for blacknose sharks caught in gillnets from 14.4 lbs in the DEIS to 18.7 lbs in the FEIS. Also, the data from the 2005–2008 Shark Gillnet Observer Program seems to indicate that gillnet fishermen may be able to target other SCS species, and minimize the mortality of blacknose sharks. NMFS used this information to re-analyze the alternatives regarding quotas in the FEIS. The new preferred alternative in the FEIS, A6, sets a non-blacknose SCS quota of 221.6 mt dw and a blacknose shark quota of 19.9 mt dw. In addition, NMFS changed their preferred alternative from B3 in the DEIS, which would have prohibited gillnets from South Carolina south, to alternative B1, the No Action alternative in the FEIS, which would retain gillnets as an authorized gear in the shark fishery.

Comment 5: If a prohibition on gillnet gear is implemented, what is going to stop NMFS from removing all gillnet gear in other fisheries, such as the mackerel fishery, in the future?

Response: In the DEIS, NMFS preferred alternative B3, which would have prohibited gillnets from South Carolina south, but due to recent data and new data analysis and public input, NMFS changed its preferred alternative in the FEIS to B1, the No Action alternative, which would retain gillnets as an authorized gear in the shark fishery. In addition, this amendment only deals with management measures in the Atlantic shark fishery and any measures specific to the mackerel

fishery would be implemented through the Regional Fishery Management Council that has authority for this species. This comment does not call for change to any specific section of the DEIS. Therefore, no specific change was made in the FEIS or this final rule in response to this comment.

Comment 6: NMFS received several comments on the use of VMS in the gillnet fishery. One commenter asked if gillnet fishermen would be compensated for VMS if gillnet gear is banned. Another commenter noted that gillnet boats should not have to carry VMS since it is an invasion of privacy and a waste of money to the fisherman and NMFS. Additionally, gillnet fishermen already have sufficient observer coverage. Another commenter noted that NMFS must place significant weight on protecting critically endangered right whales from entanglement and should therefore maintain the VMS requirement for all shark gillnet vessels.

Response: As described in the comments above, NMFS has identified in the FEIS alternative B1, the No Action Alternative, as the preferred alternative, which would retain gillnets as an authorized gear type for the Atlantic shark fisheries. The requirements for VMS restrictions would continue under the current regulations. VMS is vital to fisheries management, enforcement, and safety. VMS is an important tool used to monitor fishing activities in time/area closures and during the North Atlantic right whale calving season to protect this endangered species. NMFS has several other VMS requirements in place for HMS vessels including BLL vessels in the vicinity of the mid-Atlantic shark closed area and all vessels with PLL gear on board year-round. Removing VMS requirements is beyond the scope of the proposed action and does not further the stated purpose and need. NMFS, therefore, did not include any change in VMS requirements from current regulations in the FEIS or this final rule.

Comment 7: The State of South Carolina agrees with the proposed boundary for the prohibition for shark gillnet gear. In 2008, commercial fisherman in South Carolina landed 20,000 lbs ww of smooth dogfish primarily from bottom long lines while 7,384 lbs ww of blacknose sharks were landed, with only 372 lbs ww of these reported from gillnets. Most catches of smooth dogfish in South Carolina occur in the winter when interactions with whales should be less likely.

Response: NMFS would like to thank the State of South Carolina for submitting information on the commercial fishing landings in their State waters. After reviewing the data from the 2005–2008 Shark Gillnet Observer Program, which seems to indicate that gillnet fishermen may be able to target certain species and avoid others, NMFS has decided to change the preferred alternative from B3 in the DEIS, which would have banned gillnets from South Carolina south, to the No Action alternative, B1 in the FEIS, which would continue to allow all of the current authorized commercial fishing gears for sharks, including gillnets. Smooth dogfish would be allowed to be landed with all current authorized gear types. The FEIS carries forward as a reasonable alternative available for selection by the decision maker, the ban on gillnet as an authorized gear in alternative B3. Neither the FEIS or this final rule changed as a result of this comment. However, as noted above, NMFS changed the selected alternative in the FEIS and made conforming changes in Amendment 3 and this final rule as a result of other comments on this issue.

Comment 8: NMFS received several comments regarding the overlap of the SCS gillnet fishery with other gillnet fisheries in the southeast region. Comments included: The NMFS proposal will force effort into other gillnet fisheries (*e.g.,* kingfish fishery); NMFS needs to know the number of blacknose shark catches in the mackerel fishery and how that relates to the 22 percent mortality of blacknose shark by gillnets; if NMFS is taking the bulk of gillnet effort away, why not let mackerel fishermen keep blacknose sharks; NMFS should eliminate blacknose shark landings and allow mackerel fishermen to land other SCS; and, NMFS should collect data on discards in the mackerel fishery.

Response: NMFS recognizes that fishermen may adapt in different ways to new regulations placed on a fishery, which may include increasing their effort in other fisheries. NMFS continues to collect fishery-dependent and fishery-independent data from all Federally managed fisheries including data on landings, discards, and bycatch. While the measures implemented in this amendment only pertain to the Atlantic shark fisheries, NMFS considers cumulative impacts on other fisheries and fishery participants when choosing preferred alternatives. Based on the most recent data, which indicates that gillnet fishermen may be able to target certain species with gillnet and avoid others, NMFS changed the preferred alternative from B3 in the DEIS, which would have eliminated gillnet gear as an authorized gear, to alternative B1 in the FEIS, the No Action alternative, which retains gillnet gear as an authorized gear in the Atlantic shark fishery. Also, under the new preferred alternative in the FEIS, A6, incidental catches of blacknose sharks will continue to be allowed. NMFS made changes in the preferred alternative from the DEIS to the FEIS based on this and similar comments and made conforming changes in the Final Amendment 3 and this final rule.

C. Commercial Pelagic Shark Effort Controls

Comment 1: NMFS should prefer the No Action alternative C1. Shortfin mako sharks are underutilized and NMFS should not propose any measures.

Response: Based upon the 2008 ICCAT stock assessment for shortfin mako sharks, NMFS has determined that the North Atlantic population is experiencing overfishing. Under the Magnuson-Stevens Act, if NMFS determines that a fishery is overfished or approaching an overfished condition due to excessive international fishing pressure and there are no management measures to end such overfishing in an international agreement to which the United States is a party, it must take action at the international level to end overfishing (16 U.S.C. §§ 1854, 1854 note). The ICCAT stock assessment did not provide a recommended TAC or mortality reductions to prevent overfishing of shortfin mako sharks, making it difficult to set a quota or other limit to prevent overfishing. Because there are currently no ICCAT measures to end overfishing of shortfin mako sharks and U.S. shortfin mako shark landings have comprised approximately nine percent of international landings from 1997 through 2008, domestic reductions of shortfin mako shark mortality alone would not end overfishing of the entire North Atlantic stock. Therefore, NMFS believes that ending overfishing and preventing an overfished status would be better accomplished through international efforts.

Comment 2: NMFS received many comments regarding the minimum size alternatives for shortfin mako sharks (alternative C4). These comments included: In order to reduce the risk of overfishing of the shortfin mako, the Environmental Protection Agency (EPA) recommends including a measurable alternative, such as alternative C4a, along with preferred alternatives C5 and C6; there should be a minimum size limit restriction of 73 inch fork length (FL) (185.4 cm FL) for the commercial harvest of shortfin mako with a

retention limit of 3 fish per trip; the size limits for shortfin mako shark should be changed to 108 inches FL (274.3 cm FL) in the commercial fishery; there should be a 72 inch FL (182.9 cm FL) min size for recreational and commercial fisheries; since it is indicated that the commercial fishery lands so few shortfin mako sharks below the recreational minimum size, implementing that minimum size should have minor economic impact on commercial fishermen, yet would have a positive ecological impact on the shortfin mako stock; and NMFS should not establish a commercial minimum size for shortfin mako sharks as that management measure would present safety at sea issues.

Response: NMFS analyzed applying commercial size limits in the shortfin mako fishery according to the size at which 50 percent of males reach sexual maturity (22 in IDL; equivalent to 73 in FL) and the size at which 50 percent of females reach sexual maturity (32 IDL; equivalent to 108 in FL). Using data from pelagic longline (PLL) fishery observers and PLL logbook data, NMFS estimated the average number of additional shortfin mako sharks that would be released alive according to the proposed 22 in IDL and 32 in IDL size limits to be 89 and 5 shortfin mako sharks, respectively. Despite the potentially minimal economic impacts of imposing a commercial size limit for shortfin mako sharks, NMFS concluded that neither of the size limits would dramatically reduce shortfin mako shark mortality in the U.S. commercial fishery and that any mortality reductions would not be enough to end overfishing of this species. NMFS has decided to take action at the international level through international fishery management organizations to establish management measures to end overfishing of shortfin mako sharks. Based on the results of future ICCAT stock assessments of shortfin mako sharks, NMFS may consider and propose additional management measures for shortfin mako sharks as necessary.

Comment 3: NMFS received numerous comments in support of, and in opposition to, the preferred alternative to work at the international level to end overfishing of shortfin mako (alternative C5).

Response: The United States commercial harvest of Atlantic shortfin mako sharks has historically been incidental in the PLL fishery. NMFS determined that the U.S. contribution to North Atlantic shortfin mako shark fishing mortality is relatively low in comparison to the total fishing mortality on the North Atlantic stock. According to ICCAT shortfin mako landings estimates, the United States contributed less than 9 percent (3262 mt ww/36,397 mt ww = 8.6 percent) of the total North Atlantic shortfin mako shark fishing landings. As such, NMFS believes that the status of the stock is due to excessive international fishing pressure, and domestic reductions of shortfin mako shark mortality alone would not end overfishing of the entire North Atlantic stock. Therefore, NMFS has decided to take action at the international level through international fishery management organizations, consistent with section 304(i) of the Magnuson-Stevens Act, where countries that have large catches of shortfin mako sharks could participate in the establishment of management measures to end overfishing of shortfin mako sharks.

Comment 4: NMFS should take action domestically, such as removing shortfin mako sharks from the pelagic shark species complex and placing it on the prohibited shark species list (alternative C3).

Response: The U.S. commercial PLL fishery does not specifically target shortfin mako sharks and their harvest represents a small percentage of the overall fishing mortality for the North Atlantic shortfin mako shark stock. Moving shortfin mako sharks to the prohibited shark species list would increase the number of dead discards from the U.S. PLL fleet, as retention of shortfin mako sharks that come to the vessel dead would be prohibited. Additionally, reducing U.S. shortfin mako shark mortality alone would likely not be enough to end overfishing for this stock. For these reasons NMFS selected the preferred alternatives in the FEIS to work internationally to end overfishing of shortfin mako sharks, and to promote the live release of shortfin mako sharks domestically.

Comment 5: NMFS received comments stating that commenters are troubled by NMFS' apparent belief that it need not implement strong measures to end domestic overfishing of shortfin mako because the bulk of the catch occurs at the international level. Section 304 of the Magnuson-Stevens Act does not prevent NMFS from taking immediate action at the domestic level to prevent overfishing by U.S. vessels. Moreover, the Magnuson-Stevens Act section 303 specifies that all fishery management plans, including those applicable to species that are managed under international agreements, have effective ACLs and AMs by 2010 or 2011 unless the agreement specifies a different deadline. Nothing in the Magnuson-Stevens Act requires NMFS to avoid taking action on the domestic front simply because applying the required measure will not instantaneously or singlehandedly end overfishing. The United States must take a leadership role in ensuring the sustainable, scientific management of international fisheries, both by promoting these measures internationally and implementing them at home.

Response: There are several strict measures (*e.g.,* landings quota, fins attached provision) that shortfin mako sharks are managed under domestically, and the United States is considered a leader in shark fishery management. Amendment 3 also includes mechanisms for specifying ACLs and establishing AMs for Atlantic sharks. NMFS believes that taking action at the international level through international fishery management organizations to establish management measures to end overfishing of shortfin mako sharks is the most effective way to end overfishing of shortfin mako sharks in the long term without causing significant economic impacts to domestic fishermen in the short term. Sections 102 and 304(i) of the Magnuson-Stevens Act encourage this approach, particularly for species approaching an overfished condition due to excessive international fishing pressure when there are no management measures to end overfishing under an international agreement to which the United States is a party. The shortfin mako shark is part of the pelagic species complex, which currently has defined criteria for MSY, OY, and status determination. NMFS has implemented measures that limit commercial harvest through quotas and trip limits for incidental permit holders that act as measures equivalent to ACLs and AMs, respectively. The 2008 ICCAT SCRS stock assessment did not recommend a TAC or necessary mortality reductions for shortfin mako sharks. Therefore, it is difficult to determine appropriate catch levels that would help to stop overfishing or be overly restrictive to U.S. fishermen, putting them at a disadvantage compared to international fishermen. NMFS feels that international cooperation is essential at this time in order to determine the level of catch that would stop overfishing on the entire Atlantic stock.

Comment 6: NMFS received several comments regarding the proposed alternative to promote the live release of shortfin mako sharks (alternative C6). One commenter stated that about 90 percent of the shortfin mako sharks that are caught on longlines come to the vessel alive and asked how NMFS

would promote the release of shortfin mako sharks. Another commenter questioned the effectiveness of this alternative and questioned the practicability of advising fisheries to release saleable sharks even though they may not be the target of the fisheries that are largely targeting swordfish and tuna. Another commenter stated they did not support alternative C6 because there is no evidence that the alternative will be successful especially given that NMFS recognizes that discards of shortfin mako sharks are rare because their meat is highly valuable. The State of Georgia commented that it is unclear how alternative C6 would impact the meat quality of the shortfin mako kept. Some commenters noted their support for alternative C6. One commenter stated that NMFS should promote the live release of shortfin mako sharks, but should not make it a requirement, and that it is common for the distant water fleet to release live sharks.

Response: According to the PLL observer program reports from 1992–2006, 68.9 percent of shortfin mako sharks are brought to the vessel alive and 30.1 percent come to the vessel dead. Live release of shortfin mako sharks would be voluntary under this action and could be promoted using current HMS outreach mediums (*e.g.,* Web site, e-mail listserv, mailings) along with others that have yet to be determined. This would allow NMFS to communicate the current status (overfishing occurring) of the North Atlantic shortfin mako shark stock in the hopes that fishermen will voluntarily reduce commercial fishing mortality to avoid a future change in stock status (overfished) that could lead to more restrictive measures. Because additional outreach efforts would likely be developed over time, NMFS is unable to predict how they will impact shortfin mako shark mortality in the commercial fishery. NMFS is unaware of any price differential between shortfin mako sharks that arrive at the vessel alive or dead, and this action is not expected to impact shortfin mako meat quality or ex-vessel prices.

Comment 7: NMFS received multiple comments regarding the shortfin mako stock assessment. Some commenters stated that the United States needs to perform a stock assessment domestically for shortfin mako sharks, separate from the ICCAT assessment. Other commenters asked who conducted the stock assessment and if it was done the same way as other shark stock assessments. One commenter stated that he is concerned with the doubling of the age of maturity and the length of life of the female shortfin mako, while the male shortfin mako did not seem to change in demographics much at all. Another commenter felt that the data used in the stock assessment is outdated and has been flawed for years now. NMFS does not use real time data such as the 2009 season. The shortfin mako shark population has not changed drastically in the past 8 years.

Response: The North Atlantic shortfin mako shark stock assessment is conducted by ICCAT's SCRS on an international level because of the highly migratory nature of the stock between international jurisdictions. The ICCAT stock assessment uses shortfin mako data from all reporting countries. Therefore, some of the data and assessment approaches used in the ICCAT SCRS shortfin mako shark assessment may differ from the data and approaches used in domestic shark assessments, which are conducted through the Southeast Data, Assessment, and Review (SEDAR) process. In either case, NMFS believes that the data and approaches used in these shark stock assessments represent the best available science. Any changes in shortfin mako size at maturity estimates occurred due to new scientific information, which is considered the best available science at this time.

D. Recreational Measures for SCS

Comment 1: NMFS should implement alternative D2 to modify the minimum size limit for recreationally caught blacknose sharks.

Response: Alternative D2 would modify the minimum recreational size for blacknose sharks based on their biology from 54 inches FL to 36 inches FL. The new restriction would lower the current minimum size for blacknose sharks and could lead to increased landings of blacknose sharks. In order to achieve the TAC recommended by the 2007 blacknose shark stock assessment, NMFS would need to reduce overall blacknose mortality. Since decreasing the minimum size for blacknose sharks could result in increased landings of blacknose sharks, NMFS did not select this alternative at this time. NMFS carried this alternative forward for full consideration in the FEIS but did not identify it as the preferred alternative or select it as an element of Final Amendment 3.

Comment 2: The State of South Carolina and others support the change in the recreational bag limit for Atlantic sharpnose sharks from one per person per day to two per person per day, particularly within the South Atlantic region (alternative D3). The Atlantic sharpnose was listed as not overfished with no overfishing occurring and the SCS quota has also been consistently under harvested in the South Atlantic region. Increasing retention limits for Atlantic sharpnose could mitigate the economic impacts of SCS quota reductions. NMFS has listed the Atlantic sharpnose as a readily identifiable species, and increasing their recreational bag limit should have no negative impact on sandbar, dusky, or blacknose sharks.

Response: NMFS thanks the State of South Carolina for submitting a comment and recreational catch data. Alternative D3 would increase the retention limit for Atlantic sharpnose sharks based on current catches and stock status. Based on the 2007 stock assessment for Atlantic sharpnose, the biomass for Atlantic sharpnose sharks is falling towards the maximum sustainable yield threshold. While the stock is not currently overfished or experiencing overfishing, the latest stock assessment suggests that increasing fishing effort, such as increasing the retention limit of Atlantic sharpnose sharks, could result in an overfished status and/or cause overfishing to occur. Thus, since increasing the retention limit for Atlantic sharpnose could result in increased fishing effort and result in negative ecological impacts for the stock, NMFS did not implement this alternative. While NMFS carried Alternative D3 forward for full consideration as a reasonable alternative in the FEIS, it did not select it as part of Final Amendment 3.

Comment 3: NMFS received numerous comments regarding the proposed alternative to prohibit the recreational retention of blacknose sharks (alternative D4). Commenters stated that few recreational fishermen target blacknose and since they rarely reach the 54-inch minimum size, Alternative D4 would likely have no impact. Some commenters were concerned that prohibiting the retention of blacknose sharks in the recreational fishery, while allowing retention in the commercial fishery, equates to an allocation decision giving 100 percent of the quota to one sector. Other commenters stated that there was no reason recreational anglers should be allowed to retain a species that is overfished. The State of South Carolina commented that NMFS should implement alternative D4 because this action will provide additional protection for blacknose sharks in Federal and State waters and help educate the public and fishermen as to the precarious status of the overall blacknose shark population. The State of Georgia does not support alternative

D4 since the current size limits in place under the FMP already afford adequate protection for blacknose sharks. Georgia commented that NMFS should look at the recently enacted management of the coastal States relative to shark species and determine where the problems with recreational retention of blacknose sharks are occurring. Georgia supports alternative D1, which would be consistent with the State regulations to the maximum extent practicable. The State of Florida commented that NMFS should not prohibit the retention of blacknose sharks in the recreational fishery, and should, instead, work on other regulations to end overfishing of blacknose sharks. The State's current shark regulations provide conservation and management measures that permit a reasonable and sustainable annual harvest, while additional Federal restrictions are not warranted for State waters.

Response: NMFS agrees that few recreational fishermen target blacknose sharks. Based on public comments and the fact that current recreational size limits afford adequate protection for blacknose sharks, NMFS changed the preferred alternative from alternative D4 in the DEIS, which would have prohibited blacknose sharks, to D1 in the FEIS, the No Action alternative, which maintains the current recreational size and bag limits. NMFS will maintain the existing recreational retention limits for SCS. Recreational anglers are currently allowed one authorized shark per vessel per trip (including SCS). Also, they are allowed 1 bonnethead shark and 1 Atlantic sharpnose shark per person per trip. In addition, there is a recreational minimum size of 54 inches (4.5 ft) FL, which does not apply to Atlantic sharpnose or bonnethead sharks allowed per person per trip. Most blacknose sharks do not reach the current Federal minimum size of 54 inches FL, therefore, it is presumed that most recreational blacknose shark landings currently occur in State waters, where size and retention limits for blacknose sharks may be less restrictive than Federal regulations. In the Atlantic Ocean, under the ASMFC Interstate Coastal Shark FMP there is currently no minimum size limit for blacknose sharks. Because the Federal minimum size limit of 54 inches FL, acts as a de facto retention prohibition, and after evaluating public comments on the DEIS, NMFS decided to change the preferred alternative in the FEIS to alternative D1. However, NMFS asks each State to implement measures consistent with the current Federal 54 inch FL size limit to help reduce recreational mortality in State waters and meet rebuilding targets for blacknose sharks. Depending on the results of the upcoming blacknose shark stock assessment, NMFS may consider prohibiting recreational retention of blacknose sharks in future actions. Thus, at this time, NMFS believes that these current regulations will continue to provide adequate protection for blacknose sharks in the recreational fishery. However, it may be necessary to increase outreach to recreational fishermen on the identification of blacknose sharks so those that are caught can be released in a manner that maximizes survival of this species. It may also be necessary to work with States to ensure consistent regulations and enforcement.

Comment 4: If NMFS prohibits the retention of blacknose sharks in the recreational fishery, how will this impact ASMFC member States?

Response: If NMFS adds a particular species to the prohibited species list, according to the ASMFC Interstate Coastal Shark FMP, the member States would need to implement management measures that would provide a conservation equivalency for blacknose sharks or States could decide to mirror NMFS regulations. However, in the DEIS, NMFS was not proposing to add blacknose sharks to the prohibited species list. Rather, in the DEIS, NMFS proposed not authorizing recreational possession of blacknose sharks. Thus, under the proposed management measure in the DEIS, ASMFC regulations would not be affected unless ASMFC took action to be consistent with Federal regulations.

Comment 5: Recreational fishermen cannot reliably identify blacknose sharks. If the retention of blacknose sharks is prohibited in the recreational fishery, NMFS will need to implement an outreach program to educate recreational anglers.

Response: Based on public comments and the fact that current recreational size limits afford adequate protection for blacknose sharks, NMFS changed the preferred alternative from alternative D4 in the DEIS, which would have prohibited blacknose sharks, to D1 in the FEIS, the No Action alternative which maintains the current recreational size and bag limits. Currently, NMFS has recreational shark identification placards that categorize the differences between the recreational sharks. The placards can be attained on the HMS Web site (*http://www.nmfs.noaa.gov/sfa/hms/sharks/*) or by contacting the HMS division at 301–713–2347. In the future, NMFS could cooperate with States to increase identification of this species in State waters as a larger portion of the recreational catch of blacknose sharks occurs in State waters.

E. Recreational Measures for Pelagic Sharks

Comment 1: NMFS received comments in support of the No Action alternative (alternative E1).

Response: Based on the 2008 ICCAT SCRS stock assessment for shortfin mako sharks, NMFS has determined that the North Atlantic population is experiencing overfishing. Under the Magnuson-Stevens Act, if NMFS determines that a fishery is overfished or is approaching an overfished condition due to excessive international fishing pressure and there are no management measures to end such overfishing in an international agreement to which the United States is a party, it must take action at the international level to end overfishing (16 U.S.C. 1854, 1854 note). The ICCAT stock assessment did not recommend a TAC or mortality reductions to prevent overfishing of shortfin mako sharks, making it difficult to set a quota or other limits to prevent overfishing. Because there are currently no ICCAT measures to end overfishing of shortfin mako sharks, and U.S. shortfin mako shark landings have comprised approximately nine percent of international landings from 1997 through 2007, NMFS believes that taking action on an international level to end overfishing of shortfin mako sharks is necessary at this time.

The No Action alternative would allow the recreational harvest of one shortfin mako shark greater than 54 inches FL per vessel per trip. The decision to work on an international level to end overfishing and promote the live release of shortfin mako sharks will not change the current recreational shortfin mako shark size or bag limits.

Comment 2: NMFS received several comments regarding the minimum size for recreational shortfin mako fishing (alternative E2). Comments included: Recreational limits for shortfin mako should be one fish per trip of any size; we are requesting a bag limit of two mako sharks and a minimum size of 72 inches FL (182.9 cm FL)—this minimum size should apply to all fishermen, recreational and commercial; NMFS should implement a realistic minimum size like the minimum length requirement of 66 inches (167.6 cm) in the Annual Mako Mania Tournament; and NMFS should adopt alternative E2b, which increases the minimum size for recreational fishers from 54 to 73 inches FL—this coupled with the

preferred alternatives for shortfin mako management, represent an integrated strategy that will immediately reduce shortfin mako harvest while aspiring to make long-term, systemic changes in both international management of and domestic attitudes toward the shortfin mako fishery.

Response: Two size limits were analyzed for the recreational shortfin mako shark fishery based on the estimated size of sexual maturity of females (108 inches FL) and the estimated size of sexual maturity of males (73 inches FL). Large Pelagic Survey (LPS) data from 2004 to 2008 was used to estimate the impact of the proposed size limits on recreational shortfin mako shark landings from tournament and non-fishing tournament activities. This analysis found that 99.5 percent of all recreational landings fell under the proposed 108 inch FL size limit, and 60.3 percent of all recreational landings fell under the proposed 73 inch FL size limit. The 73 inch FL size limit would have a greater impact on non-tournament landings, as 81 percent of the non-tournament landings fell under the 73 inch size limit compared to 51.7 percent of the tournament landings. Implementing either of these size limits would reduce a large percentage of shortfin mako shark landings from a fishery that contributes a small percentage of the overall North Atlantic shortfin mako shark landings, would likely not end overfishing on the stock, and could have negative social and economic impacts. Therefore, NMFS believes that ending overfishing and preventing an overfished status would best be accomplished through development of management measures at the international level to be adopted and implemented by the United States and other nations.

Comment 3: NMFS received several comments, including from the State of South Carolina, in support of the proposed alternatives E3 and E4. Commenters felt that those measures should assist in overall shortfin mako recovery while not becoming overly burdensome to the U.S. sector of the fishery that is not chiefly responsible for the current stock status. However, NMFS also received several comments that did not support the proposed alternative. These commenters noted that with recreational fishing tournaments actively targeting shortfin mako sharks, offering large prizes for their capture, and placing a high value on retaining them as trophies, it is difficult to see how promoting a voluntary live release measure will have any effect on the species' mortality. These commenters also note that shortfin mako sharks are highly valued, both as one of the few sharks generally deemed "edible" and as a recognized "trophy" to be weighed and displayed upon capture. Operators of for-hire vessels are unlikely to release a legal-sized mako over the objections of their fares. While a significant proportion of the recreational shark fishery is comprised of anglers who say they practice catch-and-release, exceptions to that general practice are often made when a shortfin mako is brought to boatside.

Response: NMFS agrees that working on an international level to reduce overfishing and promoting the live release of shortfin mako sharks is the best course of action to take at this time. Because the United States contributes very little to shortfin mako shark mortality in the North Atlantic, ending overfishing and preventing an overfished status may be better accomplished through international efforts with other countries that have large takes of shortfin mako sharks. NMFS believes that this action is appropriate at this time rather than implementing restrictive management measures unilaterally, which could unilaterally disadvantage U.S. fishermen. Promoting the release of shortfin mako sharks that are brought to the vessel alive, and the NMFS Code of Angling Ethics (64 FR 8067), could result in the reduction of fishing mortality of shortfin mako sharks and thus, have positive ecological impacts for this species. In promoting the live release of shortfin mako sharks, recreational fishermen will have the opportunity to reduce shortfin mako shark mortality with the intent to maintain the stock and avoid an overfished determination, which could lead to new restrictions on the U.S. recreational fishery. Outreach efforts will be developed over time, therefore, NMFS is unable to predict how they will impact shortfin mako shark mortality in the recreational fishery.

Comment 4: NMFS should implement alternative E5, prohibit landing shortfin mako sharks in recreational fisheries, or at least prohibit landings in fishing tournaments. NMFS acknowledges that shortfin mako sharks could meet two of the most important of the four criteria that lead to being listed as a prohibited species (*i.e.,* there is sufficient biological information to indicate the stock warrants protection and the fact it resembles other prohibited species). NMFS has rejected this alternative simply because it would have a significant negative effect on commercial fishery revenue (over a quarter of a million dollars annually) and it would inhibit expansion of the pelagic longline fleet. Further, NMFS speculates that prohibiting retention could result in increased dead discards. This rationale is inadequate.

Response: Placing shortfin mako sharks on the prohibited species list would result in a recreational catch and release fishery for this species. NMFS decided not to prohibit landing of shortfin mako sharks in the recreational fishery because, given the small numbers of shortfin mako sharks landed in the recreational fishery in comparison to international landings, prohibiting the possession of U.S. caught shortfin mako sharks is unlikely to end overfishing on the stock, and because of the importance of shortfin mako sharks in recreational fishing tournaments. If shortfin mako are prohibited in the commercial fishery, increases in dead discards mainly apply to the commercial PLL fleet, where over 30 percent of shortfin mako caught are dead at haulback. In the recreational fishery, post-release mortality rates for shortfin mako sharks are generally believed to be low when injuries from hooking and releasing the shark are minimized, therefore, NMFS would not anticipate a significant increase in dead discards with a recreational shortfin mako shark retention prohibition. NMFS believes that the preferred alternatives, to work internationally to end overfishing of shortfin mako sharks and to promote the live release of shortfin mako sharks domestically, are adequate at this time.

Comment 5: The EPA notes that the DEIS is unclear regarding the impact of shortfin mako shark landings attributed to the recreational fishery in comparison to landings from the commercial fishery. Alternatives E2a and/or E2b, which are similar to the commercial size limit alternatives, should be preferred, since an increase in size limits could have significantly positive ecological impact upon this species and would lead to a large majority of the recreationally-caught shortfin mako sharks being released alive.

Response: In the DEIS, NMFS calculated average annual recreational shortfin mako shark landings from ICCAT estimates from 1981 to 2007. Because there were no ICCAT landings estimates available for the commercial shortfin mako shark fishery from 1981 to 1991, the impact of the recreational fishery on shortfin mako shark mortality may have been inflated. In the FEIS, NMFS compares recreational and commercial ICCAT estimates of shortfin mako shark landings over years where data for both fisheries are available

(1992–2008). This analysis shows that shortfin mako shark landings from the U.S. commercial (109,611 sharks landed) and recreational (110,256 sharks landed) fisheries are similar over that time period. Implementing the size limits proposed in Alternatives E2a or E2b will reduce a large percentage of shortfin mako shark landings from a fishery that contributes a small percentage of the overall North Atlantic shortfin mako shark landings. Therefore, implementing size limits would unnecessarily disadvantage U.S. fishermen in relation to those from other countries who also contribute to shortfin mako shark mortality. NMFS believes that ending overfishing and preventing an overfished status would best be accomplished through development of management measures at the international level to be adopted and implemented by the United States and other nations.

Comment 6: NMFS received a comment that asked about the post-release survival for shortfin mako sharks.

Response: Scientific studies have not been conducted regarding the post-release survival of North Atlantic shortfin mako sharks caught in U.S. commercial or recreational fisheries, therefore, it is currently unknown for these fisheries. A study by Hight *et al.* 2007, estimated the post-release survival of shortfin mako sharks caught on PLL gear at approximately 80 percent. This research was conducted in the Pacific Ocean off of California using different gear (J hooks) and shorter soak times (~3 hours) than in the U.S. Atlantic PLL fishery. Therefore, it may not be representative of the post-release survival of North Atlantic shortfin mako sharks caught in the U.S. Atlantic PLL fishery. In the recreational fishery it is believed that post-release survival is very high, especially when injuries from hooking and releasing the shark are minimized and fishermen release sharks in a way that maximizes their survival.

Comment 7: NMFS says that the U.S. catch proportion is less than 10 percent. Last year, the data was extrapolated and the range was between 4–5 percent. If that is correct, NMFS is overstating the relevancy of the U.S. catch to the entire Atlantic-wide mortality. The United States is not a big player in the shortfin mako shark fishery. Canada and Spain will determine the fate of shortfin mako sharks at ICCAT.

Response: The proportion of U.S. shortfin mako shark catch referred to in the DEIS was calculated from estimated commercial shortfin mako shark landings and discards reported to ICCAT from 1997 to 2008, which is approximately 9 percent of the Atlantic-wide shortfin mako shark landings over that time period (3431 mt ww/39,769 mt ww = 8.6 percent). This indicates that the United States contributes a small proportion to the overall fishing mortality on the North Atlantic shortfin mako shark stock.

Comment 8: Several commenters felt that the proposed alternatives would close the shortfin mako recreational fishery.

Response: NMFS considered five alternatives for pelagic sharks in the recreational fishery, and only one, adding shortfin mako sharks to the prohibited species list, would prohibit recreational landings of shortfin mako sharks. The preferred alternatives in the FEIS, working on an international level to end overfishing and promoting the live release of shortfin mako sharks, will not prohibit landings of shortfin mako sharks or close the recreational fishery.

F. Smooth Dogfish

Comment 1: NMFS received several comments in support of the No Action alternative (alternative F1) and mirroring ASMFC smooth dogfish regulations (alternative F3). For example, the State of North Carolina opposed the preferred alternative F2, and supported alternative F1 under the smooth dogfish management measure. The State of Virginia and other commenters support Alternative F1 as their preferred option, but could also support Alternative F3. The State of Virginia believes Addendum I to the ASMFC Coastal Shark FMP is a compromise between the ease of species identification for Law Enforcement and the need by the commercial fishery to completely process smooth dogfish at sea due to their rapid spoilage. The State feels that the current ASMFC management regime for smooth dogfish should allow NMFS to take no action at this time (alternative F1) or to add smooth dogfish under NMFS management and mirror the provisions of the ASMFC Interstate Shark FMP (alternative F3). Similarly, the MAFMC supports the No Action alternative (alternative F1) since the fishery is not a growth fishery and landings have been stable. The MAFMC also commented that if no action (alternative F1) is selected, the Council would support requesting ASMFC to adopt mandatory dealer reporting requirements and establish a quota consistent with alternative F2a3. The MAFMC also noted that if NMFS determines that it will implement Federal management, then as a secondary choice the MAFMC supports alternative F3 for smooth dogfish.

Response: Because smooth dogfish is not currently a Federally managed species and fishery data reporting is not required, catch, effort, and participant data are sparse. These smooth dogfish data limitations have led to an unknown stock status and an unknown condition of the fishery. One way to rectify these shortcomings and provide needed conservation and management of smooth dogfish is to bring the species under Federal management. The Magnuson-Stevens Act requires preventing overfishing while achieving optimum yield on a continuing basis. Collection of smooth dogfish fishery data will facilitate stock assessments and effort estimates and addressing overfishing and other mandates under the Magnuson-Stevens Act. NMFS did not prefer the No Action alternative (Alternative F1) because maintaining the status quo would perpetuate the unknown condition of the fishery. Furthermore, because the resource is available along most of the eastern U.S. coast and there is a market for the product, smooth dogfish effort could increase as other fisheries become more constrained.

NMFS chose not to prefer Alternative F3, mirroring the ASMFC smooth dogfish measures, because the ASMFC plan contains some provisions that NMFS cannot implement and does not include others that NMFS must implement. On May 6, 2009, the ASMFC approved a smooth dogfish Addendum to the Atlantic Coastal Sharks FMP for public comment. Included within this Addendum is an exception for smooth dogfish to allow at-sea processing (*i.e.,* removal of shark fins while still onboard a fishing vessel), removal of recreational retention limits for smooth dogfish, and removal of the two hour net-check requirement for shark gillnets. The at-sea processing would require a five-percent fin to carcass ratio, but would allow for the removal of fins at sea. The allowance for the removal of shark fins while still onboard a fishing vessel and the removal of the two hour net-check requirement differs from current Federal regulations for other shark species. NMFS considers the requirements for gillnet checks and maintaining shark fins naturally attached through offloading to be important to minimize impacts on protected resources and to prevent shark finning, respectively. NMFS recently implemented the fins attached regulation for all Atlantic sharks for enforcement and species identification reasons and does not favor creating a potential loophole that could hinder enforcement. In addition,

ASMFC has not established a quota or a permitting requirement for the smooth dogfish fishery. As noted above, NMFS is required to establish ACLs and AMs under the Magnuson-Stevens Act and believes that permitting is the first step to gaining information about the fishery. Thus, NMFS has decided not to mirror the ASMFC regulations at this time. Nonetheless, under alternative F2, NMFS will delay implementation of the management measures until the beginning of the smooth dogfish season in 2012 and, in the interim, continue to work with ASMFC and the MAFMC to ensure Federal and State regulations are consistent to the extent practicable.

Requiring that fins remain naturally attached to the smooth dogfish carcass is important to NMFS for several reasons: To facilitate species identification; to maintain consistency with other shark regulations that require that the fins remain attached while keeping the carcass essentially whole; and to maintain consistency with the United States' international shark conservation and management positions. Identifying all sharks to the correct species is a vital step in vessel and dealer reporting. These reports are used to monitor catch levels in relation to quotas and to advise stock assessments. When ASMFC implemented their regulations allowing the removal of smooth dogfish fins during certain seasons, they only considered the potential overlap in species distribution between sandbar and smooth dogfish. They did not consider the potential overlap with many other species of sharks that NMFS manages including SCS and spiny dogfish and the potential for misidentification with these species. NMFS heard during the proposed rule comment period that participants in the smooth dogfish fishery fully process the fish into "logs" or fillets of meat at sea. Identifying the species of fully-processed carcasses from cuts of meat is very difficult. For this reason, for a number of years before first requiring that fins be attached in 2008, NMFS had prohibited the filleting of sharks at sea and required all sharks be landed as logs. In the 2006 Consolidated HMS FMP, NMFS took a further step of requiring that the second dorsal and anal fin be maintained on the dressed carcass. Furthermore, the ability to identify both carcasses and fins to the species level is critical for enforcing the prohibition on shark finning for all Federally managed Atlantic shark species. The most effective way for fishermen, dealers, and enforcement to properly identify both fins and carcasses is to require that fins remain naturally attached through offloading. Detached smooth dogfish fins can be difficult for most people to differentiate from other shark fins. Differentiating numerous detached smooth dogfish fins from other shark fins can be inefficient and impractical from an enforcement perspective, particularly in a high volume fishery.

All sharks currently managed by the Secretary of Commerce (Secretary) (large coastal sharks, small coastal sharks, and pelagic sharks) must be landed with fins naturally attached. Deviating from this measure in the smooth dogfish fishery would introduce management inconsistencies and potential enforcement loopholes. The fins naturally-attached regulation is also consistent with the U.S. international position on shark conservation and management. Globally, shark finning is a serious threat to many shark species. The United States has co-sponsored fins-attached proposals and supported an international ban on the practice of shark finning and has recently proposed adding several species to the CITES Appendix II listing to aid in monitoring shark fin trade. An effective method to enhance the enforceability of a finning ban is to require that fins remain naturally attached to the shark carcass through offloading. In addition to this requirement, the United States also encourages maintaining the five percent fin-to-carcass ratio. The five percent fin-to-carcass ratio is a critical tool for dockside enforcement when enforcement officers are unable to monitor an entire offload, and enhances shark conservation efforts by allowing NOAA to utilize dealer landing records to detect potential shark finning violations post-landing for subsequent follow-up investigation. If domestic exemptions to the fins naturally attached regulation were implemented, it could undermine the United States' international position on the fins naturally attached policy and other shark conservation and management measures.

Comment 2: Several commenters asked what would happen if NMFS decided not to implement management actions (alternative F1). They asked if it would that mean that the ASMFC would be the sole managers of smooth dogfish.

Response: Whether NMFS decided to implement management measures or not, ASMFC regulations would not apply in Federal waters. The jurisdiction of ASMFC management plans only includes State waters, and the absence of a Federal management plan would not extend ASMFC's jurisdiction. While smooth dogfish are not currently managed at the Federal level, there are Federal regulations in place that apply to smooth dogfish fishing in the EEZ, including the Shark Finning Prohibition Act. This Act prohibits landing shark fins without the corresponding carcass and in excess of 5 percent of the carcass weight. If NMFS decides not to implement management measures, these Federal regulations will still apply. This comment did not require any revision in the FEIS.

Comment 3: NMFS received comments supporting the proposed alternative (alternative F2), which would implement management measures in the smooth dogfish fishery. Several commenters noted that this alternative would also require issuance of Federal permits, which are essential in remedying the serious deficiencies in data and would lead to better stock assessments. The preferred alternative of Federal management has the added benefit of obtaining dealer reports and providing for Federal fishery observers aboard vessels targeting dogfish. The State of Georgia supported the proposed alternative and noted that as ASMFC has recognized the importance of smooth dogfish, it is only fitting that NMFS should also consider responsible management of this species in Federal waters.

Response: NMFS believes that implementing Federal management measures, should the species be brought under NMFS management, would be an important first step in meeting its Magnuson-Stevens Act mandate to prevent overfishing while achieving, on a continuing basis, optimum yield. Achieving this mandate would require the collection of smooth dogfish fishery data to perform stock assessments and effort estimates. Federal permits, dealer reporting, and on board observers would provide valuable participant information and better characterize the nature of the fishery. The ASMFC's action to include smooth dogfish in the coastal shark management plan is further indication of emerging awareness that the species is in need of conservation and management measures. Due to the highly migratory nature of smooth dogfish and its large range, it would provide a positive ecological benefit across their range regardless of political boundaries. The DEIS identified alternative F2 as the preferred alternative and no change was made in the FEIS or this final rule except that the implementation of the measures under the preferred alternative would be delayed until the beginning of the smooth dogfish fishing season in 2012 to allow time for fishery

participants to adjust to the new requirements.

Comment 4: NMFS received many comments specific to the 5 percent fin to carcass ratio for smooth dogfish, including that the 5 percent ratio is too low and that the ratio should be closer to 10–12 percent. The MAFMC commented smooth dogfish are unique in their fin to carcass ratio. They have two dorsal fins that are large enough to retain and sell. The carcasses are typically sold with the napes removed, rather than split, which significantly reduces the weight basis of the carcass and increases the fin to carcass ratio. The fins are removed with a straight cut, rather than the crescent cut required for other shark fins, thereby increasing its weight and the fin to carcass ratio. As a result, the fin to carcass ratio for smooth dogfish is typically 9 to 10 percent if the two pectoral fins and two dorsal fins are retained. The tails are not typically retained due to their low value, but if they are retained, the total fin weight increases to 13 to 14 percent.

Response: On December 21, 2000, the Shark Finning Prohibition Act (Pub. L. 105–557) (Act) was signed into law. The Act established a rebuttable presumption that any shark fins landed from a fishing vessel or found on board a fishing vessel were taken, held, or landed in violation of the Act if the total weight of shark fins landed or found on board exceeded five percent of the total weight of shark carcasses landed or found on board. It was implemented by NMFS through a final rule released in February 11, 2002 (67 FR 6124). Thus, any changes to the five percent ratio would have to be modified by Congressional action. NMFS does not have discretion to selectively implement the five percent fin to carcass ratio in certain shark fisheries. Furthermore, difficulty in abiding by the five percent fin to carcass ratio further supports NMFS' requirement that all smooth dogfish fins remain naturally attached to the carcass through offloading. Keeping the fins naturally attached to the carcass through offloading makes it easier for fishermen to comply with the Shark Finning Prohibition Act. In order to help fishermen document that sharks were landed with their fins attached NMFS modified the dealer reporting forms so that it can be clearly documented that the sharks were landed with fins attached. NMFS did not add an additional alternative to the FEIS or this final rule in response to this comment.

Comment 5: The MAFMC encourages NMFS to address Section 307(1)(P) of the Magnuson-Stevens Act as it relates to the smooth dogfish fishery, and suggests exploring a Letter of Authorization for the fishery addressing the rebuttable presumption clause. The smooth dogfish fishery fully utilizes the carcasses, so there is no conservation purpose served for this species by the five percent limit fin to carcass ratio.

Response: Section 307(1)(P) of the Magnuson-Stevens Act states that "[i]t is unlawful (1) for any persons to * * * (P)(i) remove any of the fins of a shark (including the tail) and discard the carcass of the shark at sea; (ii) to have custody, control, or possession of any such fin aboard a fishing vessel without the corresponding carcass; or (iii) to land any such fin without the corresponding carcass." The section continues that "[f]or the purposes of subparagraph (P) there is a rebuttable presumption that any shark fins landed from a fishing vessel or found on board a fishing vessel were taken, held, or landed in violation of subparagraph (P) if the total weight of shark fins landed or found on board exceeds 5 percent of the total weight of shark carcasses landed or found on board."

As noted in the previous response, NMFS has no discretion to selectively implement the five percent fin to carcass ratio in certain shark fisheries, therefore, NMFS cannot issue Letters of Authorizations to exempt fishermen from complying with the Magnuson-Stevens Act and statutory requirements of the five percent fin to carcass ratio.

Comment 6: NMFS received comments specific to the proposed requirement that smooth dogfish fins remain naturally attached to the carcass (alternative F2) including the requirement that smooth dogfish be landed with their fins naturally attached since allowing an exemption for smooth dogfish will undermine the overall management and protection of sharks. NMFS also received comments opposed to the actions including: The fins attached requirement will end the commercial smooth dogfish fishery and would have no conservation value for smooth dogfish; requiring fins remain naturally attached to the carcass in the summer will reduce the meat quality because fishermen will have to remove the fins in 95 degree heat while on the dock; requiring fins remain naturally attached to the carcass will cause the meat to spoil faster; NMFS stated that their intention was not to change the fishery, but all the proposed requirements, particularly requiring fins remain naturally attached, will change the fishery; NMFS should adopt a rule that mirrors the provisions approved by the ASMFC, which requires that the smooth dogfish fins need not be landed attached, except for the dorsal fin during the months of July through February; and, the fishery is a 98-percent directed fishery, with little or no by-catch of other shark species. The State of South Carolina recommended that NMFS consider allowing permitted commercial shark fisherman to process and remove fins from smooth dogfish at sea, with the exception of the 1st and 2nd dorsal fins. This would allow these landed sharks to be differentiated from other species, including sandbar sharks. The MAFMC commented that smooth dogfish flesh is uniquely soft and translucent, and is singular among shark species in its tendency to discolor if the fish is not promptly bled, thoroughly rinsed to remove any remaining blood, and iced. This unique attribute of the fish requires at-sea processing. The fins and tails have always been removed and, in some cases, the backs and fins are sold to different customers. Requiring the fins and tails to remain attached would substantially impede the bleeding and cleaning process that is essential to preventing discoloration and preserving the quality of the fish.

Response: The FEIS acknowledges and considers the concerns raised in this comment with respect to potential difficulties resulting from the inability to completely process smooth dogfish at sea. However, requiring that fins remain naturally attached to the carcass facilitates species identification and prevents exceptions to the Federal prohibition on shark finning. The requirement also maintains consistency across all Secretary of Commerce-managed shark species in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea and reflects the U.S. international position regarding shark conservation. While the fins naturally attached requirement will apply to Federal smooth dogfish fishing permit holders regardless of fishing location, the intent of the measure would not be to obviate the ASMFC measures, as suggested in one of the comments. The ASMFC and NMFS operate under different mandates, jurisdictions, and contexts (domestic and international). These differences sometimes result in, and can necessitate, different management measures.

NMFS' intention, when implementing smooth dogfish management measures, is to minimize alterations to the fishery. As such, NMFS is delaying the effective date of the management measures under the preferred alternative in the FEIS until the beginning of the fishing season in 2012 to allow fishermen and dealers time to adjust to the new requirements. Smooth dogfish management measures will not be implemented until the 2012 fishing season, and NMFS believes that

the methods and techniques employed in other shark fisheries can be adopted in the interim. However, the practices currently employed in the fishery are sometimes in conflict with NMFS' shark conservation and management position and Congressional mandates such as the Shark Finning Prohibition Act. As noted in several of the comments above, requiring smooth dogfish fins to remain naturally attached to the carcass differs from the current practice in the fishery. As described in the response to a comment above, NMFS deemed that maintaining a fins-attached requirement would be critical for several reasons: (1) To facilitate species identification, (2) to maintain consistency across all Federally managed shark species, and (3) to maintain consistency with the U.S. and NMFS international position with regard to shark conservation and management. A potential NMFS requirement to land smooth dogfish with fins naturally attached would not prohibit at-sea processing methods currently in place in most other Atlantic shark fisheries that maximize meat quality, freshness, and processing efficiencies. It would remain legal to remove the shark's head and viscera for proper bleeding. To reduce dock-side processing needs, all fins could be partially cut at the base and only left attached via a small flap of skin. NMFS did not add an additional alternative to the FEIS or this final rule in response to this comment.

Comment 7: NMFS received comments regarding the proposed quota for smooth dogfish (alternative F2a3). Numerous commenters stated that the proposed quota was too high for a species lacking a stock assessment and that has been categorized as near threatened by the International Union for the Conservation of Nature (IUCN). NMFS also received numerous comments stating that the proposed quota is too low such as: In the early 1990s, Virginia alone caught over a million pounds and North Carolina or New Jersey could easily take the proposed quota themselves in the next year or two without increasing effort. The amount of take in the fishery depends on whether the fish are available when the fishermen go out. The quota needs room for growth since there are a lot of fishermen targeting smooth dogfish. Several commenters stated that the data used to determine the quota were flawed since a lot of people are not reporting on the vessel trip reports (VTRs) and that NMFS needs to look at all sources and geographic regions (including the Gulf of Mexico) of mortality including trawl gear. NMFS also received a comment that NMFS should not set a smooth dogfish quota the first year and should set quota the second year based on landings data. The State of Virginia commented that the absence of a statistically sound time series of landings or any type of analytical stock assessment for smooth dogfish makes this quota alternative impractical. Quota-based management requires some current information on the status (biological) of the stock. The State of Virginia also noted that there are approximately twelve commercial fishermen that land in excess of 500 pounds of smooth dogfish during any one year from 2004 through 2008 in Virginia. For the five year period of 2004 through 2008, Virginia's smooth dogfish harvest totaled 2,316,648 pounds. A total of 1,140,809 pounds were harvested from State waters (49.2 percent) and 1,175,839 pounds from Federal waters (50.8 percent). The State of South Carolina supports Federal management of smooth dogfish and the proposed method of determining the annual commercial and recreational landings, plus the addition of 6 mt ww of smooth dogfish to the present 60 mt ww quota for all sharks collected in exempted fishing programs. The State of Georgia supports the quota limit for the smooth dogfish fishery, since the logic used to calculate the quota appears sound at this time. The MAFMC states that NMFS commercial landings data shows zero smooth dogfish landings from Virginia for 1996, while greater than 500,000 lbs are known to have been purchased by a single Virginia dealer in that year. The MAFMC recommended that the collection of fishery data through mandatory logbook reporting be initiated as soon as possible. The data collection will help develop a stock assessment.

Response: The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (Pub. L. 109–479) added Section 303(a)(15) to the Magnuson-Stevens Act which requires all FMPs for Federally managed fisheries to establish a mechanism for specifying ACLs and to include AMs to ensure that ACL are not exceeded. The mechanism by which this requirement is applied to shark fisheries is detailed in Chapter 1 of the FEIS for Amendment 3, including the necessity to establish an annual commercial quota. Despite sparse smooth dogfish landings reports and the lack of a stock assessment, establishing an ACL to prevent overfishing would be a condition of bringing the species into the HMS FMP and under Federal management under the Magnuson-Stevens Act.

Inline with the intention to minimize changes to the fishery, NMFS proposed to establish a quota that would allow current exploitation levels of smooth dogfish to continue. Although some changes to the fishery would be necessary, as noted above (*e.g.,* fins naturally attached), the primary goal of the smooth dogfish portion of this amendment is to characterize and collect data on the fishery. This goal necessitates a quota near actual exploitation levels. Due to the lack of reporting requirements in the fishery, NMFS relied on available data to estimate current landing levels. Despite the lack of management, many fishermen in the mid-Atlantic region have been reporting their landings. Some of these fishermen have Federal permits for other species and are required to report all landings, including smooth dogfish, due to the regulations in those other fisheries. Other fishermen do not have Federal permits and report smooth dogfish landings voluntarily. These landings, and the number of vessels reporting these landings, have remained fairly constant since the late 1990s. Existing sources, particularly the Atlantic Coastal Cooperative Statistics Program (ACCSP) for commercial catches across all gear types, offer insight into the current State of the fishery. NMFS used ACCSP data to estimate current landing levels and then used this estimate to establish an annual quota. In the DEIS, NMFS proposed a quota equal to the maximum annual landings between 1998 and 2007 plus one standard deviation in the ACCSP data. Setting the quota higher than maximum reported landings was intended to account for what NMFS believes to be significant underreporting due to the lack of smooth dogfish reporting requirements. During the public comment period, however, NMFS received numerous comments, as described above, that the proposed quota does not adequately account for underreporting. Several States provided State data that also indicated the sources NMFS used may be underreporting actual landings. Based on these comments and Southeast Fishery Science Center (SEFSC) advice, NMFS decided to deviate from the preferred alternative in the DEIS and to identify alternative F2a4, the quota equal to the annual maximum landings plus two standard deviations, or 715.5 mt dw (1,577,319 lbs dw), as the preferred alternative in the FEIS. NMFS believes that setting the quota at a level that accounts for current landings does

not threaten smooth dogfish stocks. A review of the reported landings does not indicate any immediate declining trend, and as noted by one of the commenters, the average size of landed smooth dogfish is increasing. Based upon these limited data and observations, there are few indications that the smooth dogfish stock is overfished and in need of an immediate reduction in mortality. In fact, based on the limited data available, smooth dogfish landings appear to have been stable since the mid-1990s. The IUCN status appears to be based upon the fact that smooth dogfish have an unknown stock status. The IUCN description of smooth dogfish notes that there is no stock assessment for the species. Regardless, NMFS does not rely on IUCN statuses when developing management measures, but rather uses peer-reviewed stock assessments and primary literature. Once more data is gathered on this species, NMFS could complete a stock assessment. NMFS would reassess the quota at that time and make any necessary changes.

Comment 8: NMFS received several comments relating to the set-aside quota for research on smooth dogfish. One commenter noted that Alternative F2b1 provides for a "set-aside" quota for an exempted fishing program. It is appropriate for NMFS to establish this set-aside, though clearly this set aside should be subtracted from the total quota and not provided as an additional quota. The State of South Carolina believes the quota for smooth dogfish landed in exempted fishing programs is adequate, and notes that they have several public aquaria and three to four researchers in the State who have permits to collect sharks. None of those permit holders have expressed concerns to the State about the proposed quota. The State of Georgia noted that the set aside amount for the exempted fishing program is reasonable.

Response: NMFS identified the establishment of a separate smooth dogfish set-aside quota for the exempted fishing program of 6 mt ww as the preferred alternative in the FEIS. The set-aside quota for the exempted fishing permit (EFP) program is an important part of any fishery management plan. The EFP program facilitates research that can be used to inform management measures and provide data for stock assessment. Creating a separate and distinct set-aside quota from the principle quota ensures that research activities do not impede the commercial or recreational fisheries through quota limitations. As noted in the previous response, NMFS' intention when establishing the commercial quota was to set it at a level that would account for all annual commercial landings. For this reason, it is not prudent to subtract the set-aside quota from the overall commercial quota. Doing so would result in a smaller commercial quota that might not fully account for the current annual commercial landings. In the future, after performing a stock assessment and characterizing the fishery, adjustments could be made to the set-aside quota as well as the commercial quota.

Comment 9: Any differences between the NMFS and ASMFC plans will complicate smooth dogfish fishing since fishermen will have a difficult time following the regulations. There must be coordination between ASMFC and NMFS.

Response: On January 1, 2010, the ASMFC Coastal Sharks FMP, which includes smooth dogfish measures in Addendum I, was implemented across most of the Atlantic coast States. The ASMFC plan contains several measures that differ from NMFS', as detailed in the response to Comment 1 of this section, resulting in a few inconsistencies between the two plans. NMFS recognizes the importance of consistent regulations between State and Federal waters for both stock health and ease of compliance. While complimentary ASMFC and NMFS plans are not possible at this time, NMFS will continue to work closely with the ASMFC toward similar management measures and will consider any future changes to the ASMFC plan to ensure measures are as consistent as possible between State and Federal waters. As additional data from the fishery becomes available and the fishery becomes more fully characterized, NMFS will have better information to inform collaboration and future management measures. NMFS is aware of and disclosed the potential inconsistencies between the ASMFC Coastal Shark FMP and Federal management of smooth dogfish under the Magnuson-Stevens Act in the FEIS.

Comment 10: The State of Virginia noted that having fins attached would significantly change how the fishery is conducted and smooth dogfish fishermen would shift all their effort into State waters. By shifting effort from Federal to State waters, Alternative F2 provokes an unintended consequence of increasing the likelihood of interaction between smooth dogfish gear and several stocks of bottlenose dolphin that spend the majority of the year within State waters.

Response: NMFS recognizes that differences in Federal and State smooth dogfish regulations could redistribute effort resulting in a fishery that is no longer equally divided between State and Federal waters. However, regardless of where fishing activities occur, protected resource interactions are a concern, and care must be taken to avoid or minimize impacts on marine mammals and sea turtles. In Federal waters, smooth dogfish fishermen will be required to abide by both the gillnet and other requirements in 50 CFR part 635 and with the regulations implemented under various Take Reduction Plans (TRPs) in 50 CFR part 229 to minimize adverse impacts on protected resources. Although NMFS does not have jurisdiction over the smooth dogfish fishery in State waters, Section 118 of the Marine Mammal Protection Act (MMPA) tasks NMFS in the development and implementation of TRPs to reduce serious injuries and mortalities of marine mammal populations incidental to commercial fishing activities. These TRPs have numerous requirements to minimize impacts on marine mammal populations and are applicable in both State and Federal waters. The permitting requirement in the preferred alternative should enhance the ability of smooth dogfish fishermen to participate in these TRPs. Numerous TRPs exist, including the Bottlenose Dolphin Take Reduction Plan (BDTRP), which smooth dogfish fishermen will have to abide by if fishing in Virginia State waters. Specific regulations pertinent to the BDTRP can be found at 50 CFR 229.35. Any redistributed effort into Virginia's State waters affecting bottlenose dolphins will be addressed under the BDTRP or other applicable TRP.

In addition, NMFS is currently engaged in formal Section 7 consultation in accordance with the ESA, paragraph 7(a)(2), to determine the potential level of incremental effect that may arise as a result of the preferred management measures for smooth dogfish in the FEIS. NMFS has not yet issued a final BiOp for the smooth dogfish fishery. NMFS will review that BiOp once it is issued and supplement the analysis in this FEIS if the consultation reveals any new or significant effects with respect to the interaction between gillnet fishing for smooth dogfish and protected species that were not considered in the 2008 BiOp for Amendment 2 to the 2006 Consolidated HMS FMP. The FEIS incorporated by reference the 2008 BiOp for Amendment 2 to the 2006 Consolidated HMS FMP. A detailed discussion of the effects of such management relevant to the shark fishery is included in that document. NMFS does not anticipate any

substantial change in impact to protected species since the measures proposed for smooth dogfish management are largely administrative, and thus unlikely to affect the manner and extent of fishing for smooth dogfish or redistribution of effort into other fisheries. NMFS assumes there is a correlation between fishing effort and protected species interactions. Since smooth dogfish management measures would establish a quota and permit requirement, fishing effort for smooth dogfish would be capped or slightly reduced with a corresponding diminishment in the possibility of increased protected resource interactions. In addition, increased observer data in the smooth dogfish fishery as a result of a Federal permit requirement would better characterize protected resources interactions with the smooth dogfish fishery.

Comment 11: Florida fishermen catch smooth dogfish in the Tortugas and use them as bait because smooth dogfish are worthless. Gulf of Mexico fishermen catch them while grouper fishing. If you catch 5,000 lbs of grouper, you might have about 50 lbs of smooth dogfish. The common length is 12–24″ and they are caught at the top of the continental shelf. NMFS should not include rules made for the mid-Atlantic in the Gulf of Mexico. If smooth dogfish are causing problems in the mid-Atlantic, NMFS should establish separate regulations on them. Fishermen in the Gulf of Mexico cannot fish for anything without catching a few smooth dogfish. There are no smooth dogfish fisheries in the Gulf of Mexico.

Response: Smooth dogfish is a widely distributed species, ranging from Massachusetts to South America including the Gulf of Mexico and Caribbean Sea (*see* Chapter 11 in the FEIS). Despite this wide distribution, the current fishery is concentrated in the Mid-Atlantic region, and no reports of commercial landings in the Gulf of Mexico could be found. Although there are no reported landings of smooth dogfish in the Gulf of Mexico, research trawls by the SEFSC have shown that they are present in the region including in Louisiana waters. Fishermen in the Gulf of Mexico that incidentally catch smooth dogfish, but do not retain the fish or parts of the fish, will not be required to abide by Federal smooth dogfish regulations or need to obtain a smooth dogfish permit.

Under current Atlantic HMS regulations, it is illegal to catch sharks and use them as bait. If smooth dogfish were under Federal management, this requirement would apply to smooth dogfish as well. The known distribution of smooth dogfish, validated by comments such as this one, necessitates a central, unified management authority of the species. The fact that a market exists for smooth dogfish, and that they are regularly encountered in places other than the Mid-Atlantic, make management measures and data collection in the fishery important. Even though fishermen do not currently land smooth dogfish in the Gulf of Mexico, the presence of both the resource and a market means a fishery could develop in that region, particularly if other more profitable fisheries are reduced or limited. NMFS did not add an alternative in the FEIS or this final rule to separate the smooth dogfish into separate management units or fisheries in response to this comment.

Comment 12: Why will recreational fishermen be required to have a smooth dogfish permit? Would the recreational permit for smooth dogfish be the same as the current HMS recreational permit? Most of the smooth dogfish are caught incidentally. No one targets smooth dogfish recreationally. The State of South Carolina notes that few smooth dogfish are landed in their recreational fishery as that species primarily occurs off our coast in the winter months when angler effort is decreased.

Response: Efforts to characterize the smooth dogfish fishery must include both commercial and recreational fishermen to adequately estimate effort and catch. As when recreationally fishing for other Atlantic sharks, smooth dogfish recreational fishermen would need to obtain an HMS Angling permit and charter/headboats that take smooth dogfish would need to obtain an HMS Charter/Headboat permit. Those who already hold this permit will not need an additional permit to fish for smooth dogfish recreationally.

Comment 13: The State of South Carolina commented that unless future stock assessments indicate that smooth dogfish are overfished the current commercial and recreational size and retention limits seem appropriate.

Response: NMFS agrees that at this time there is no justification for imposing a size or retention limit for smooth dogfish in the recreational or commercial fishery. This is inline with the intent to minimize changes to the fishery while collecting data to characterize it. Currently, the fishery does not operate under any type of size or retention limit restrictions. After a stock assessment is completed on the species, changes could be necessary.

Comment 14: A few commenters noted that the EFH for smooth dogfish proposed by NMFS looks appropriate. The State of South Carolina agrees that the occurrence data presented is where dogfish are captured within U.S. waters. However, the State notes that there is a discontinuity between the Gulf of Mexico and the Atlantic coast groups (as presented in Figure 11.1 in the FEIS) that may indicate further investigation of species characteristics and distribution is warranted.

Response: Identifying and describing EFH for Federally managed species is a statutory requirement mandated by the Magnuson-Stevens Act. As detailed in Chapter 11 of the FEIS, NMFS used a variety of research survey datasets to identify and describe the EFH around positive smooth dogfish observations. Although NMFS relied on geographically limited datasets, the resulting EFH designation closely matches literature descriptions of smooth dogfish distribution, boosting confidence in the determination. The Northeast Fisheries Science Center (NEFSC) offered suggestions on available research survey datasets. Once incorporated in the analyses used in the FEIS, these datasets contributed to a more robust smooth dogfish designation than that proposed in the DEIS of Amendment 3. The discontinuity in EFH off the Georgia and eastern Florida coasts will require further analysis due to the lack of smooth dogfish data in the area. However, literature on smooth dogfish distribution also note an absence of the species in that area. As noted, NMFS incorporated changes to its identification and description of EFH in the FEIS based on this and similar comments.

Comment 15: NMFS stated in Amendment 3 that there is not sufficient information for smooth dogfish EFH. If that is the case, why did NMFS propose EFH?

Response: As noted in the previous response, identifying and describing EFH for Federally managed species is a statutory requirement mandated by the Magnuson-Stevens Act. NMFS is confident that the designated smooth dogfish EFH is accurate, particularly after incorporating the datasets suggested by the NEFSC. NMFS will continue to work to ensure that EFH for all HMS species utilizes the best available information. No changes were made in the FEIS based on this comment.

Comment 16: NMFS received several comments questioning whether smooth dogfish is an HMS and should be managed by NMFS or a Regional Fishery Management Council, such as the MAFMC. Commenters stated that the Magnuson-Stevens Act defines HMS as an "oceanic shark" and asked if smooth dogfish are oceanic sharks.

Commenters also asked why spiny dogfish are managed by the MAFMC and NEFMC. One commenter stated that NMFS should manage smooth dogfish fisheries since it is the only Atlantic shark species which is subjected to a targeted fishery that has no Federal management measures. That commenter also felt a Federal management component would likely enhance new management efforts by the ASMFC.

Response: The Magnuson-Stevens Act is the primary statute that authorizes Federal management of fisheries in the U.S. Exclusive Economic Zone. Regional fishery management councils have authority to manage species and stocks within their geographic jurisdiction as established by the Act. However, the Magnuson-Stevens Act gives the authority to the Secretary to manage stocks or species of highly migratory species that move across more than one of the five Atlantic councils' jurisdictions. Provisions of the Act relevant to Secretarial management of HMS include:

Section 3(21): The term "highly migratory species" means tuna species, marlin (*Tetrapturus* spp. and *Makaira* spp.), oceanic sharks, sailfishes (*Istiophorus* spp.), and swordfish (*Xiphias gladius*). Section 302(3): The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

Section 301(3) (National Standard 3): To the extent practicable, an individual stock of fish should be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

Magnuson-Stevens Act Section 3(21) defines HMS. Unlike some other HMS, sharks mentioned in the definition are not defined by family or species. Rather, the term "oceanic shark" is used. The statute does not further expound upon or define this term. NMFS, therefore, considered two major factors in making its determination with respect to smooth dogfish. First, it considered the life history, habitat, migratory patterns, occurrence and distribution of the species. Second, NMFS considered its interpretation in the context of the various provisions of the Magnuson-Stevens Act applicable to HMS to ensure that its interpretation was logical and consistent with those provisions. Given the broad application of the term in conjunction with the habitat, migratory patterns and geographic distribution of the species, smooth dogfish is fairly characterized as an oceanic shark consistent with the structure and application of the Magnuson-Stevens Act. A more detailed rationale follows.

NMFS examined section 302(3) and section 301(3) (National Standard 3). Both of these sections relate to management authority based on the distribution of the species. As noted in Chapter 11 of the FEIS, smooth dogfish inhabit the geographical area of all five Atlantic Regional Fishery Management Councils, and across international boundaries to South America and Mexico. Further, smooth dogfish tend to be found inshore during the warmer months. However, thermally stable, deep offshore waters are preferred in the colder months (up to 200m) and Caribbean populations occupy waters deeper than 200m. Data from research surveys show that smooth dogfish are found along the eastern seaboard, in the Gulf of Mexico, and in the Caribbean Sea. Based on these factors, NMFS reasonably concluded that the smooth dogfish is an oceanic shark and, given its range across multiple Atlantic Regional Fishery Management Council Jurisdictions, highly migratory. Moreover, management of smooth dogfish under a single FMP is consistent with the Magnuson-Stevens Act's mandates for the Secretary to manage highly migratory species to the extent practicable as a single management unit. Smooth dogfish is a separate species from spiny dogfish and has separate management concerns. NMFS is making a determination to manage and conserve smooth dogfish on its own merits.

Comment 17: Multiple commenters asked who requested Federal smooth dogfish management.

Response: NMFS received smooth dogfish management requests from environmental conservation organizations. Furthermore, around the time of scoping for Amendment 3, both the ASMFC and the MAFMC identified that smooth dogfish were in need of conservation and management and began the process of creating management measures. These efforts by the ASMFC and the MAFMC reinforce the emerging realization that the fishery is in need of both State and Federal management.

Comment 18: NMFS should work with the small group of fishermen that fish for smooth dogfish to gather info on the fishery rather than proposing new requirements.

Response: Although a specialized fishery with perhaps a smaller number of fishermen than other fisheries, the smooth dogfish fishery still includes a large number of participants. Within the Vessel Trip Report (VTR) and Costal Fisheries Logbook databases, an average of 213 vessels per year reported landing smooth dogfish between 2004 and 2007. This large number of participants makes collaboration with each of the smooth dogfish participants impracticable. However, under the smooth dogfish preferred alternative, alternative F2, implementation of management measures will be delayed until the beginning of the smooth dogfish fishing season in 2012. This delay will allow NMFS to continue outreach and have discussions with smooth dogfish participants regarding the fins attached regulation and will allow fishery participants time to modify their operation to comply with the regulations that will be implemented in 2012. A discussion of the smooth dogfish fishery is included in the FEIS.

Comment 19: NMFS should ensure that smooth dogfish will be available year round. The January 1 opening for smooth dogfish could be good for North Carolina, since it is a winter fishery. It would affect North Carolina fall catch rates if the fishery became quota-limited.

Response: Inline with the intention to minimize changes to the fishery, NMFS decided to establish a quota that would allow current exploitation levels of smooth dogfish to continue. NMFS believes that the established quota is at a sufficient level to prevent quota limitations if the fishery maintains current landing levels. Because there are no regional or seasonal restrictions included in the preferred alternative, the quota should be available year-round, and no specific region or State will disproportionately benefit from the quota. NMFS plans to open the fishery each year with a **Federal Register** notice that would likely publish near the beginning of each year.

Comment 20: One commenter noted that smooth dogfish fishermen fish several nets at once, with short soak times. It would change the fishery if NMFS required the nets to remain attached to the vessel. The State of South Carolina commented that the smooth dogfish gillnet fishery has been practiced for some time in North Carolina and the Mid-Atlantic States. If during this time there have been no or few problems associated with interactions with endangered or protected species, the State sees no reason to increase restrictions or change the way the fishery has historically been conducted. One commenter noted that the two hour net checks probably would not hurt smooth dogfish fishermen since the soak time is short. However, fishermen cannot do net checks with a flashlight looking down into the water because the nets are set deep. Also, net checks will be difficult to enforce.

Another commenter stated that NMFS should extend existing gillnet gear tending requirements to smooth dogfish fishermen, such as requiring that gillnets be checked at least every two hours and that protected and prohibited species are released. Gillnets frequently catch non-target species, including prohibited shark species, marine mammals, and sea turtles. The nature of the gear makes some level of bycatch nearly unavoidable.

Response: NMFS agrees that the requirement to keep gillnets attached to the vessel and to perform net checks could alter how the smooth dogfish fishery operates. Smooth dogfish fishermen are already required to and will continue to be required to abide by Federal Take Reduction Plans specific to the gear type and region of fishing activity. These plans include the Atlantic Large Whale Take Reduction Plan, the Bottlenose Dolphin Take Reduction Plan, and the Mid-Atlantic Harbor Porpoise Take Reduction Plan that include requirements minimize interactions with protected resources and to ensure those that are incidentally caught are released in a manner that maximizes survival.

NMFS is currently engaged in formal Section 7 consultation in accordance with the ESA, paragraph 7(a)(2), to determine the potential level of incremental effect that may arise as a result of the preferred management measures for smooth dogfish in the FEIS. NMFS has not yet issued a final BiOp for the smooth dogfish fishery. NMFS will review that BiOp once it is issued and supplement the analysis in this FEIS if the consultation reveals any new or significant effects with respect to the interaction between gillnet fishing for smooth dogfish and protected species that were not considered in the 2008 BiOp for Amendment 2 to the 2006 Consolidated HMS FMP. The FEIS incorporates by reference the 2008 BiOp for Amendment 2 to the 2006 Consolidated HMS FMP. A detailed discussion of the effects of such management relevant to the shark fishery is included in that document. NMFS does not anticipate any substantial change in impact to protected species since the measures proposed for smooth dogfish management are largely administrative, and thus unlikely to affect the manner and extent of fishing for smooth dogfish or redistribution of effort into other fisheries. NMFS assumes there is a correlation between fishing effort and protected species interactions. Since smooth dogfish management measures would establish a quota and permit requirement, fishing effort for smooth dogfish would be capped or slightly reduced with a corresponding diminishment of the possibility of increased protected resource interactions. In addition, increased observer coverage in the smooth dogfish fishery as a result of a Federal permit requirement would better characterize protected resources interactions with the smooth dogfish fishery.

Under the alternative (F2), identified as the preferred alternative in the FEIS and selected by NMFS as part of Amendment 3 in the Record of Decision, the implementation of the management measures would be delayed until the beginning of the smooth dogfish fishing season in 2012 to allow time to consider and evaluate the information and requirements included in the final smooth dogfish BiOp. If the assessment of effects in the BiOp provides new and meaningful information not considered in this FEIS, NMFS will supplement the FEIS, as appropriate, before implementing any management measures proposed in alternative F2. In the interim, NMFS will not impose any management authority or related conservation and management measures on the smooth dogfish fishery, and thus will not cause any effect on protected species related to such management. In other words, the selection of preferred alternative F2 maintains the status quo with respect to the smooth dogfish fishery as it relates to protected species prior to receiving a final BiOp. While NMFS would finalize the rulemaking with measures for blacknose shark and shortfin mako sharks becoming effective 30 days after publication of the final rule in the **Federal Register**, the measures, if any, selected for management of smooth dogfish would be deferred to allow NMFS to develop reasonable and prudent alternatives (RPAs) that could be implemented while avoiding adverse impacts to listed species, as necessary.

Comment 21: Trawl fishermen skin smooth dogfish at sea and sell them as steaks.

Response: Under Federal management, trawl fishermen will likely not be able to continue skinning smooth dogfish at sea, and will not be able to continue processing the fish into steaks at sea. Smooth dogfish, like all other Federally managed Atlantic shark species, would be required to be landed with fins naturally attached to the carcass under alternative F2, the alternative identified as the preferred alternative in the FEIS and selected by NMFS as part of Amendment 3 in the ROD. Trawl fishermen could continue to skin the shark if they can leave the fins naturally attached to the carcass, but they will be unable to process the smooth dogfish into steaks at sea. NMFS did not add an alternative in the FEIS or this final rule in response to this comment.

Comment 22: NMFS might cause an influx of new fishermen into the fishery with the new open access permits.

Response: NMFS acknowledges that there may be some fishermen who will obtain a permit and try to establish a catch history in case the fishery is changed to limited access at some point in the future. There may also be some fishermen in areas that do not currently have a smooth dogfish fishery, such as in the Gulf of Mexico, who may obtain a permit in the hopes of creating a similar fishery in that region. However, NMFS does not believe that the creation of a smooth dogfish open access permit will attract large numbers of new fishermen to the fishery or cause a large increase in fishing effort. The fishery is currently unmanaged in Federal waters and operates with few restrictions. Although NMFS has tried to minimize changes to the fishery, Federal management does introduce new restrictions, including a requirement to keep fins naturally attached to the carcass. If fishermen did not choose to enter the fishery when it was unmanaged, it is unlikely that Federal management would entice them to enter the fishery now. A discussion of the socio-economic impacts of bringing the smooth dogfish fishery under Federal management is included in the FEIS.

Comment 23: NMFS should proceed with a stock assessment for smooth dogfish throughout their range. The State of Virginia suggested that pooling resources between ASMFC, NMFS, and MAFMC may expedite the process.

Response: A stock assessment is important for any fishery management plan. Knowing the current biomass and how it relates to B_{msy} or to virgin stock biomass informs quota levels and size and retention limits. NMFS believes that the first step in working toward a stock assessment is collecting data and characterizing the fishery. Once NMFS has sufficient data from the fishery a stock assessment could be done in the future to determine the stock status of this species. These are the goals of the smooth dogfish measures in the preferred alternative for Amendment 3 as explained in the FEIS. NMFS would like to work closely with ASMFC, MAFMC and other interested parties in conducting a stock assessment.

G. General Comments

Comment 1: Is there a mechanism in place for ASMFC to request that the

Secretary implement complementary management measures in the EEZ?

Response: The ASMFC can always offer management recommendations to NMFS regarding Federally managed species. Furthermore, NMFS included an alternative in the FEIS to implement smooth dogfish management measures that mirror ASMFC measures. However, after analyzing the smooth dogfish measures in place in the 2009 Interstate Coastal Sharks FMP and Smooth Dogfish Addendum I, NMFS determined that it would likely be unable to implement many of the management measures due to Magnuson-Stevens Act and Shark Fining Prohibition Act requirements.

Comment 2: NMFS needs to add deepwater sharks to the list of prohibited shark species. Deepwater sharks are particularly slow growing, which makes them vulnerable to overfishing. Related populations have been severely and rapidly depleted from fisheries in other parts of the world.

Response: Implementing Federal management of deepwater sharks by placing them on the prohibited list would not likely have significant ecological benefits since deepwater sharks are not currently targeted in any fishery and are only caught as bycatch. Placing this group on the prohibited list would not prevent bycatch of these species. Additionally, prohibiting the landing of deepwater sharks would limit data gained from incidental catches. If prohibited, these rarely encountered species would have to be released and could not be landed and submitted for subsequent analysis. Establishing management measures for deep water sharks is beyond the scope of Amendment 3 and does not meet the purpose and need described in the DEIS and FEIS. Alternatives for such measures were therefore not considered in the FEIS.

Comment 3: Deepwater sharks are not commercially important in the United States for food. NMFS needs to truly understand the fisheries that interact with deepwater sharks and be able to assess the deepwater shark stocks accurately, especially if there is a bycatch that is or could become a secondary market landing and sale.

Response: As noted in the previous response, deepwater sharks are rarely encountered and only caught as bycatch. NMFS encourages anyone who catches a deepwater shark to submit the shark to scientists for research.

Comment 4: We are concerned about the accuracy of some of the statistics presented on recreational fishery ''harvest.'' For example, NMFS states that the number of porbeagle sharks that were ''harvested'' by recreational fishermen across all reporting years was zero. Tournaments regularly target this species and award prizes for landing them. Additionally, NMFS shows that annual harvest of sand tiger sharks was zero for the reporting years except for 2001 when 604 were taken and 2006 when 1,040 were killed. It is hard for us to see how the recreational fishery took over 1,000 sand tiger sharks in a single year, more than a decade after they were listed as a prohibited species. As such, we are concerned about the reliability of the data used by NMFS as a basis for determining impacts on species.

Response: Collection of recreational fishery catch and effort data relies on survey methods. Data are collected through a combination of dockside intercepts and telephone surveys. Since it is not possible to sample all of the millions of fishing trips taken, recreational surveys require sampling a representative portion of fishing trips, and then expanding the results. Recreational harvest estimates for species that are rarely landed, as is the case with many shark species, are typically very imprecise using survey methods designed for more commonly caught species. MRFSS estimates of sharks harvested may also be inaccurate due to the fact that the MRFSS does not sample at tournament locations. The NOAA Fisheries Large Pelagics Survey (LPS), which is conducted from Maine through Virginia, typically produces more reliable recreational catch estimates for rare event species such as sharks, tunas, and billfish. However, landings of species such as porbeagle and sand tiger sharks are still rare events even for the LPS, and variances can be quite large for these species even with a specialized survey. Efforts are underway to improve the accuracy and precision of recreational fisheries data, including estimated catches of rare event species, through a new data collection initiative called the Marine Recreational Information Program (MRIP). NMFS believes the data on recreational harvest, particularly for purposes of SCS species addressed under Amendment 3, reflects the best scientific information available at this time. Therefore, recreation harvest data was not changed in the FEIS in response to this comment.

Comment 5: Sharks need to be available all year and low quotas lead to regulatory discards. Fishermen do not need a directed shark permit to sell sharks caught in NC waters.

Response: In Amendment 2 to the 2006 Consolidated HMS FMP, NMFS implemented a trip limit of 33 non-sandbar LCS with the expectation that directed shark permit holders would no longer target non-sandbar LCS and that this reduced trip limit would allow the non-sandbar LCS quota to last year-round. However, the 2009 non-sandbar fishery opened on January 23rd and closed on July 1st in the Atlantic and June 6th in the Gulf of Mexico. Because the non-sandbar LCS seasons only lasted half of the year, NMFS is currently looking at data and analyzing management measures that would allow the fishery to remain open for longer periods during the fishing year. Adjusting seasons and quotas for non-SCS species is beyond the scope of Amendment 3 and the FEIS, therefore, NMFS did not propose management alternatives in response to this comment.

Many States do not have species-specific commercial fishing permits, and instead rely on a general commercial fishing permit. Fishermen who fish in State waters must comply with their State's fishing regulations. Fishermen that have a directed or incidental Federal shark commercial permit must abide by Federal regulations and must sell to a Federally permitted dealer when fishing in Federal or State waters.

Comment 6: The frequency of shark dealer reporting has always needed to be more frequent than every two weeks. It appears that the NMFS personnel have a hard time monitoring the various shark landings as a result of waiting too long.

Response: Frequency of shark dealer reporting requires a balance of data needs and reporting burdens. More frequent reporting could result in a reduction in data lags; however, it would significantly increase the burden of shark dealers. To account for uncertainties such as data lags, the Magnuson-Stevens Act requires AMs in each fishery to ensure that ACLs are not exceeded. In the shark fisheries, NMFS employs an AM whereby the fishery is closed when landings reach, or are expected to reach, 80 percent. This measure has been effective in ensuring that data lags do not result in grossly exceeding the quota. NMFS provides shark landings reports, by complex or species, on a monthly basis to ensure that participants are aware of catches in the shark fishery. NMFS is examining changes to the data management structure and may move toward more real time electronic reporting in the future. However, these types of data management actions are beyond the scope of Amendment 3 and alternatives were therefore not proposed in the FEIS in response to this comment.

Comment 7: A Count, Cap and Control system for shark management includes the following: Obtaining sufficient landings and observer data to accurately and precisely monitor catch (landings + discards) in the fishery; conducting species-specific stock and fishery assessments; setting annual catch limits to limit all sources of fishing mortality; and implementing accountability measures to ensure the ACLs are respected. Real-time management of quotas, time-area management measures and bycatch caps should be fully explored in this FMP amendment. If the agency decides not to use in-season AMs, it must fully support this decision with a well-defended rationale as to why in-season AMs are truly impossible, rather than impractical or incrementally more difficult to administer. The agency should take a precautionary approach towards administering the remaining quota designations for the oceanic whitetip and common thresher sharks within the pelagic shark species group. There are currently no stock assessments for either the oceanic whitetip or the common thresher sharks. In the past 10 years, the North Atlantic population of oceanic whitetip sharks has declined by an estimated 70 percent. NMFS should reassess their management of pelagic shark species. It is vital that each pelagic shark species caught by U.S. fishermen have a species-specific stock assessment and a species-specific quota.

Response: This amendment specifies how NMFS plans to implement Magnuson-Stevens Act 303(a)(15) requirements for ACLs and AMs. Chapter 1 of the FEIS details the methodology, where the quota is equal to the landings component of the commercial sector ACL. Additionally, AMs already in place in the commercial shark fishery will be maintained. These AMs include restrictions on how to carry over under- and overharvests and closing the fishery when landings reach, or are expected to reach, 80 percent. Changes to how NMFS monitors the landings, introducing time/area closures, or altering bycatch management are not addressed in this amendment as they do not support the purpose and need of this rulemaking. Therefore, management alternatives suggested by this comment were not included in the FEIS.

NMFS has not conducted a stock assessment for oceanic whitetips. Data may be a limiting factor, as there are limited landings data for oceanic whitetip sharks. NMFS will continue to work with international partners and ICCAT towards more species-specific assessments for pelagic sharks. To date, ICCAT has completed assessments for blue and shortfin mako sharks. There is scant data available on oceanic whitetip landings. Again, management of the pelagic shark complex other than shortfin mako is beyond the scope of Amendment 3 and would not meet the purpose and need set forth in the FEIS. Therefore, additional pelagic shark management measures (other than for shortfin mako) were not included in the FEIS in response to this comment.

Comment 8: NMFS received several comments regarding other shark species that require management. Specifically, commenters felt that NMFS should focus on hammerhead and tiger sharks.

Response: This amendment, among other things, focuses on NMFS' requirement under the Magnuson-Stevens Act to implement a rebuilding plan and ACLs and AMs in the blacknose shark fishery since this species is overfished and overfishing is occurring based on the 2007 SCS stock assessment results. NMFS continually monitors stocks of all species under its jurisdiction and promptly begins the rulemaking process should one of these stocks be determined to be overfished or have overfishing occurring based on the results of a stock assessment. The LCS complex was assessed in 2006 through the SEDAR process, and this assessment determined that there was not enough information for a tiger shark-specific assessment. For this reason, tiger sharks have an unknown stock status. NMFS is aware of a hammerhead assessment published in a peer reviewed journal and is reviewing that paper to determine its appropriateness for use in making stock status determinations and implementing management measures. Management of hammerhead and tiger sharks is beyond the scope of Amendment 3 and would not meet the purpose and need set forth in the FEIS. Therefore, additional management measures for these species were not included in the FEIS in response to this comment.

Comment 9: If NMFS is conducting a stock assessment on sandbar in 2010, NMFS should consider the stock north of Virginia that usually is not included because there is no fishery there. When you shut down the commercial sandbar shark fishery, you said it was because they were overfished but there are places you are not assessing.

Response: NMFS uses the best available science and a rigorous SEDAR assessment process for all sharks species. NMFS held a public data workshop for the 2005/2006 LCS stock assessment and requested that participants submit any relevant data or analysis. NMFS included all the available data that were presented at the data workshop for the LCS stock assessment, including fishery-dependent and fishery-independent data from all regions in the Atlantic, Gulf of Mexico and the Caribbean Sea. Data inputs for the stock assessment are not solely fishery-dependent, therefore, geographical limitations of the fishery do not skew the stock assessment results. Management of sandbar sharks is beyond the scope of Amendment 3 and would not meet the purpose and need set forth in the FEIS. Therefore, additional management measures for these species were not included in the FEIS in response to this comment.

Comment 10: Requiring fins be naturally attached does not work for SCS. Some dealers are not renewing their permits because they are afraid of getting in trouble with the requirement. Other dealers do not have room to process fish on the dock.

Response: NMFS does not believe that the requirement to land sharks with fins attached is overly burdensome for the following reasons. First, the requirement to land sharks with fins attached would allow fishermen to leave the fins attached by just a small piece of skin so that the shark could be packed efficiently on ice while at sea. Shark fins could then be quickly removed at the dock or at the dealer without having to thaw the shark. Second, sharks may be eviscerated, bled, and the head removed from the carcass at sea. These measures should prevent excessive amounts of waste at the dock, since dressing (except removing the fins) the shark may be performed while at sea. Third, while this requirement would result in some change to the way in which fishermen process sharks at sea, because the fins can be removed quickly once the shark has been landed, NMFS expects that the dealers will not require significantly more room for post-landing processing. Fourth, dealers have the option to accept or decline certain species, and Federal regulations would not eliminate that option. For these reasons NMFS did not propose an alternative for consideration in the FEIS or this final rule as a result of this comment.

Comment 11: What is happening regarding the legislation in place to allow flexibility in the Magnuson-Stevens Act and how does that impact Amendment 3?

Response: NMFS is aware of the Flexibility in Rebuilding American Fisheries Act of 2009 (HR 1584) sponsored by Rep. Pallone (NJ). The Act would amend the Magnuson-Stevens Act and alter the rebuilding deadlines currently in place for overfished stocks. This legislation, however, has not

passed either house of Congress, and NMFS is unable to speculate on whether or not it will ultimately pass. At this time, the Magnuson-Stevens Act, as it exists after the 2007 reauthorization, is NMFS' guiding legislation for this amendment.

Comment 12: Is there a possibility of changing the SCS fishery start date to July 1?

Response: The SCS fishing year runs from January to December. The actual fishing season starts when NMFS publishes a notice in the **Federal Register**. NMFS could delay the opening of the SCS fishing season if data indicate that it is appropriate to do so. In the proposed 2010 Shark Season Rule (October 28, 2009, 74 FR 55526), NMFS proposed to delay the opening of the 2010 SCS shark season until after the publication of Amendment 3 to the 2006 Consolidated HMS FMP. Without a delay in the start date, the 2010 SCS fishery would open under the current quota of 454 metric tons (mt) dressed weight (dw) on the effective date of the final rule for the 2010 Atlantic shark specifications. Amendment 3 proposed, among other things, measures to significantly reduce the non-blacknose SCS and blacknose shark quotas in order to rebuild and end overfishing of blacknose sharks and also established a mechanism for implementing ACLs and AMs. A delay would also allow time for the establishment of ACLs before the start of the 2010 fishing season in addition to ensuring the SCS fishery opens under the measures that may be established in Amendment 3. Additional measures to delay the shark season opening are not proposed or considered in the FEIS as they are beyond the scope of Amendment 3 and otherwise provided for under existing regulation.

Comment 13: Is NMFS considering catch shares for the shark fishery?

Response: A catch share is the allocation of the available fishery quota among participants within the fishery. Limited access privilege programs (LAPPs) are one type of catch share program. These programs may be implemented to address numerous issues, including but not limited to: Ending the race for fish, reducing overcapitalization, and improving efficiency and safety, while still addressing the biological needs of a stock. These programs can be designed to meet the specific needs of a fishery, provided they meet the requirements outlined in the Magnuson-Stevens Act. Catch shares were not considered for the shark fishery in Amendment 3 and this final rule because of the ramifications this type of program would have for the existing permit structure and the time required for implementing these programs.

To properly design a catch share program that appropriately considers the views and interests of all stakeholders and then implement such a system would have taken NMFS several years, and therefore, catch shares were not considered a reasonable alternative for this action given the mandate in subsection 304(e) of the Magnuson-Stevens Act to rebuild the blacknose stock in the shortest time possible and the additional requirement of paragraph 303(a)(15), as implemented by the National Standard 1 Guidelines, to have a mechanism for specifying ACLs and AMs in place for stocks experiencing overfishing by 2010. However, NMFS is considering revisions to the existing permit structure within HMS fisheries. This could include a catch share program for sharks as well as other HMS as was discussed during the September/October 2008 HMS Advisory Panel. NMFS published an ANPR on June 1, 2009 (74 FR 26174), to initiate broad public participation in considering catch shares for HMS fisheries. NMFS is also planning to discuss the future of the shark fishery, including the possibility of catch shares, at the May 2010 HMS Advisory Panel meeting in Silver Spring, MD (75 FR 19369, April 14, 2010). Establishing a catch share program is beyond the scope of Amendment 3 and this final rule and does not meet the purpose and need set forth in the FEIS. Catch share options, therefore, were not included or considered in the FEIS or this final rule.

Comment 14: Blacknose sharks eat newly hatched sea turtles. Your proposal to rebuild blacknose sharks will impact sea turtle populations.

Response: NMFS is bound by the Magnuson-Stevens Act requirements to stop overfishing of blacknose sharks, and to rebuild stocks to a non-overfished status. The Office of Sustainable Fisheries works closely with the Office of Protected Resources to ensure actions in the fishery do not jeopardize the continued existence of protected resources.

Comment 15: Commercial fishing for all shark species should be done using rod and reel only to reduce bycatch.

Response: Although rod and reel often has reduced bycatch of non-target species, this gear is not commonly used in the commercial fishery to target sharks. Gears that are more commonly used in shark fisheries, such as gillnets and longlines, do have some risk of bycatch however there are bycatch mitigation measures in place in the Atlantic shark fishery that reduce interactions and increase post-release survival of protected resources. Chapter 3 of the FEIS details the numerous measures in place to minimize bycatch in these fisheries. The proposal to restrict commercial shark gear to rod and reel was not included or evaluated in the FEIS or this final rule in response to this comment.

H. Economic Comments

Comment 1: Fishermen cannot sell sharks anymore. Most sharks used to go to the Midwest where there was a stable market. Those markets needed 6 to 8 months of lead time, but that market is gone now. Dealers will buy some meat ($0.20/lb) because they can resell it as bait.

Response: Permitted commercial shark fishermen are currently allowed under the regulations to sell authorized shark species to permitted dealers. NMFS examined the commercial shark fishing revenues over the past eight years in Chapter 6 of the DEIS and FEIS. Total ex-vessel revenues from small coastal shark meat has fluctuated between approximately $535,000 and $823,000 annually over that period with no discernable pattern.

NMFS provided median real ex-vessel prices for shark species groups from 2004–2007 in the DEIS and FEIS. The median ex-vessel price for SCS meat from 2004–2007 was $0.66 per pound dressed weight. NMFS acknowledges there is significant seasonal and regional variation in dealer prices. The lowest average ex-vessel median average price was for smooth dogfish, $0.29 per pound dressed weight, which is similar to the price the commenter indicated dealers are paying.

Comment 2: Did NMFS look at the monetary figures? If you spread the small SCS quota across all the permit holders, there is not enough quota for everyone.

Response: NMFS examined the per vessel impacts of the SCS quotas across all permit holders in Chapter 8 of the DEIS and FEIS. Based on data from 2004 to 2007 for directed and incidental shark permit holders that landed non-blacknose SCS, the average directed shark permit holder earned $9,427 in average annual gross revenues, and the average incidental shark permit holder earned $707 in average annual gross revenues from non-blacknose SCS landings. For those permit holders that actually landed blacknose shark during that same time period, the average directed shark permit holder earned $3,640 in average annual gross revenues, and the average incidental shark permit holder earned $1,722 in

average annual gross revenues from blacknose shark landings.

NMFS acknowledges that the availability of SCS quota proposed in the DEIS would be limited if spread across all permit holders. As described in the responses above, NMFS made changes to the SCS quotas based, in part, on the comments received. The preferred alternative in the FEIS and this final rule for small coastal sharks is now 221.6 mt versus the 56.9 mt preferred under the DEIS. The preferred alternative for blacknose shark quota was raised from 14.9 mt under the DEIS to 19.9 mt in the FEIS and this final rule.

Comment 3: Multispecies fishermen need every species they can catch. The economic impacts on these multispecies fishermen were not considered.

Response: NMFS examined the cumulative economic impacts of the proposed rule in Chapter 4 of the DEIS and FEIS.

Comment 4: The fins attached rule decreased effort on SCS because it is too much work processing the sharks twice in hot weather. Prices are lower for SCS because requiring fins remain attached to the carcass decreased the quality due to increased processing time.

Response: NMFS acknowledges that requiring fins remain attached to the carcass could decrease the quality of the product due to increased processing time. However, as described above, NMFS does not believe the requirement is overly burdensome. Additionally, other factors, such as market demand and decreased supplies, might also affect prices. NMFS will examine the impacts that leaving fins on sharks is having on prices for SCS as information becomes available.

Comment 5: Shortfin mako sharks are a significant secondary bycatch for the U.S. pelagic longline fishing fleets from Maine to Texas. Like most sharks this is a shared resource with other countries. NMFS is unilaterally proposing to hurt U.S. fishermen first with economic impacts.

Response: NMFS acknowledges that shortfin mako shark is often a bycatch species in other fisheries in the United States. The alternatives selected for the commercial shortfin mako shark fishery will not change the current retention limits for U.S. fishermen at this time. NMFS will promote the live release of shortfin mako sharks, but will not make it mandatory for the fishery. NMFS has decided to take action at the international level to end overfishing of shortfin mako sharks through participation in international fisheries organizations such as ICCAT. While these approaches could impact U.S. fishermen economically before it impacts fishermen in other countries, neither of these measures are expected to have a significant economic impact on U.S. commercial fishermen.

Comment 6: The preferred alternative that would eliminate the recreational fishery is, in fact, an allocation decision that gives 100 percent of the blacknose shark TAC to the commercial sector. There are no analyses of the economic benefits to the nation associated with this allocation. Such an economic analysis is required.

Response: Blacknose sharks rarely reach a size greater than the current Federal minimum size; therefore, the current 54 inch FL size limit creates a de facto retention prohibition of blacknose sharks in Federal waters. As discussed in the DEIS and FEIS, NMFS determined that prohibiting the retention of blacknose sharks in the recreational fishery under alternative D4 could have some negative social and economic impacts on recreational fishermen, including tournaments and charter/headboats, if the prohibition of blacknose sharks resulted in fewer charters. However, since blacknose sharks are not one of the primary species targeted by recreational anglers, in tournaments or on charters and they rarely reach a size greater than the current Federal minimum size, NMFS estimates limited negative social and economic impacts from alternative D4 on recreational anglers, tournaments, or in the charter/headboat sector.

In the FEIS, alternative D1 was the preferred alternative because the effect is the same as prohibiting the retention of blacknose sharks, thereby contributing to the rebuilding of the species. As described above, NMFS received comments from States describing their own management in State waters. Thus, NMFS chose to prefer and select this alternative rather than the previously preferred alterative, alternative D4.

Comment 7: A few commenters, including the State of Virginia, noted that there is no indication that finning has been, is, or is likely to become a problem in the smooth dogfish fishery because of the economics of the fishery. The State of Virginia notes that the smooth dogfish fishery subsists as a high volume and labor intensive endeavor, as a typical whole round weight of 1,000 pounds contains 200 to 250 individual dogfish. In a typical processed catch of smooth dogfish, the dockside value of the fins represents 20 to 30 percent of the price paid to fishermen for their total catch, and fishermen return dockside with meat and fins in separate containers. Delaying the removal of fins and tail until landing would result in decreased marketability. Smooth dogfish are harder than other species to extract from the net, butcher and clean, with the result that labor costs represent a higher percentage of the total value of the product. Cutting fins at sea is important practically to the fishery in order to maintain proper product freshness. In the absence of processing, there would be a loss of profitability to the industry because of the increased labor with re-handling each carcass.

Response: NMFS agrees that processing smooth dogfish is likely a labor intensive operation. While the delay in the removal of fins and tails until landing could reduce the quality and marketability of smooth dogfish, it is unclear whether any decreases in ex-vessel prices would exceed potential cost savings from reduced labor needs at sea associated with finning on the vessel. There would potentially be an increase in operating costs for dealers if they end up processing the fins from the smooth dogfish carcasses.

Comment 8: If NMFS set the smooth dogfish quota at 1,423,728 lb dw, we may not reach it very often but there would be years when we do. The pricing is dependent on the international market (years when the price is high, the quota will go fast).

Response: The proposed smooth dogfish quota was selected in order to accommodate average fishing levels. The 1,423,728 lb dw quota is equal to the maximum annual landings between 1998–2007 plus one standard deviation. NMFS acknowledges that in rare years, this quota might constrain the fishery. In part to address this issue, NMFS added an additional alternative to the FEIS where the smooth dogfish quota would be set equal to the maximum annual landings from 1998–2007 plus two standard deviations (1,577,319 lb dw). This new preferred alternative, which was selected by NMFS, should accommodate the potential few years were the smooth dogfish quota may exceed 1,423,728 lb dw.

NMFS is also aware that international markets may impact the pricing of domestic smooth dogfish. However, NMFS does not currently have sufficient data on the fishery to model the degree to which high international prices may increase domestic landings of smooth dogfish.

Comment 9: There is little or no fin value for smooth dogfish.

Response: The median ex-vessel price for smooth dogfish fins was estimated to be $2.02 per pound between 2004 and 2007. Based on ACCSP data from 1998–2007, in the commercial fishery an

average of 1,321,695 lb ww of smooth dogfish were retained per year. Of this total, NMFS estimates 47,543 lb of fins would be available for sale per year. Using the median ex-vessel price of these products between 2004 and 2007 ($2.02 for smooth dogfish fins), the fishery averaged $96,037 in value per year.

Changes From the Proposed Rule (74 FR 36892, July 24, 2009)

NMFS has made several administrative changes in the final rule. In addition, responding to comments from the public and others on the proposed rule, NMFS has made several substantive changes in the final rule consistent with changes made between the DEIS and Draft Amendment 3 and the final version of those documents. These changes are outlined below.

1. *Gillnet gear.* In the proposed rule, NMFS proposed to remove the authorization to use gillnet gear south of North Carolina. Due, in part, to public comments, NMFS is maintaining the current authorizations for gillnet gear, in the final rule. As such, all references to removal of gillnet gear have been removed and the current requirements remain. Additionally, as was proposed, NMFS is removing § 635.5(a)(4), which required shark gillnet vessels to contact NOAA Fisheries if a whale is taken. While NMFS proposed to remove this paragraph partly due to the proposed removal of the authorization of gillnet gear, in this final rule NMFS removes this paragraph because it is redundant to a reporting requirement under section 229 under the Marine Mammal Protection Act. NMFS is maintaining the requirement that shark gillnet vessels that take a whale must stop fishing immediately (previously § 635.21(e)(3)(v)).

2. *Smoothhound sharks.* For various reasons, as described in Amendment 3 and above, NMFS is delaying the implementation of the final actions for smooth dogfish until the start of the 2012 fishing season. As a result, many of the sections of the regulations were re-ordered and, in some cases, re-worded to ensure that requirements for smooth dogfish were separate paragraphs at the end of each section. Additionally, to reduce confusion with the spiny dogfish regulations and to more accurately describe both smooth dogfish and Florida smoothhound sharks, the final regulations changes the name of the complex containing these two species, and any references to this complex, to "smoothhound sharks" from "other sharks."

3. *Trawl gear.* Additional analyses since the DEIS show that fishermen using trawl gear interact with and land smooth dogfish incidental to other species. As such, NMFS intends to allow fishermen using trawl gear to land smoothhound sharks incidentally. However, NMFS is still considering the most appropriate way to allow for this activity and will finalize a decision on this issue in a separate action.

4. *§ 635.22(c).* Due, in part, to public comment, NMFS will no longer prohibit the retention of blacknose sharks by recreational fishermen. As a result, blacknose sharks continue to be on the list of species that may be retained by anglers. The current minimum size and bag limits will still apply.

5. *§ 635.27(b)(1).* As a result of public comment and additional analyses, NMFS modified the final quotas and retention limits for non-blacknose SCS, blacknose sharks, and smooth dogfish sharks. These modifications are reflected in this section.

Commercial Fishing Season Notification

Pursuant to the measures being implemented in this final rule, the blacknose shark baseline quota is 19.9 mt dw and the non-blacknose SCS baseline quota is 221.6 mt dw. As of March 31, 2010, less than 0.1 mt dw of SCS have been reported to NMFS (105 lb dw of blacknose and 56 lb dw of non-blacknose SCS). Given these low levels of landings, the baseline quotas for 2010 have not been adjusted. Rather, these landings, along with any additional landings that occur before the opening of the fishing season, will be counted against the quota during the 2010 fishing year. As such, the 2010 blacknose shark quota is 19.9 mt dw and the 2010 non-blacknose SCS quota is 221.6 mt dw.

The 2010 Atlantic commercial shark fishing season for non-blacknose SCS and blacknose in the northwestern Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, will open on June 1, 2010.

The non-blacknose SCS and blacknose fisheries will remain open until December 31, 2010, unless NMFS determines that the fishing season landings of non-blacknose SCS or blacknose sharks has reached, or is projected to reach, 80 percent of the available quota. If that occurs, consistent with 50 CFR 635.28(b), NMFS will file for publication with the Office of the Federal Register a notice of closure for both non-blacknose SCS and blacknose sharks that will be effective no fewer than 5 days from date of filing. From the effective date and time of the closure until NMFS announces, via a notice in the **Federal Register**, that additional quota, if any, is available, the blacknose and non-blacknose SCS fisheries will remain closed, even across fishing years, consistent with 50 CFR 635.28(b).

Classification

The Assistant Administrator for Fisheries determined that the Amendment 3 to the Consolidated HMS FMP is necessary for the conservation and management of the Atlantic HMS shark fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

NMFS prepared an FEIS for this FMP amendment. The FEIS was filed with the Environmental Protection Agency on March 12, 2010. A notice of availability was published on March 19, 2010 (75 FR 13275). In approving the FMP amendment on May 18, 2010, NMFS issued a Record of Decision (ROD) identifying the selected alternatives. A copy of the ROD is available from NMFS (*see* **ADDRESSES**).

This final rule has been determined to be not significant under EO 12866.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator waives the 30-day delayed effectiveness for this action as several measures in this final action relieve restrictions. The waiver of the 30-day delay would only apply to the opening of the blacknose and non-blacknose SCS fisheries and the associated commercial quotas (sections 635.27(b)(1)(i)–(v) and 635.28(b). All other measures in this final action would go into effect at least 30 days after publication of the final rule in the **Federal Register**. The smoothhound shark measures in this action will not be effective until the start of the fishing season in the 2012.

The small coastal shark fishery closed on December 31, 2009, and, under normal circumstances, would have opened for the 2010 fishing year upon the effectiveness of the final rule for the 2010 Atlantic shark season specifications (75 FR 250, January 5, 2010). However, due to the anticipation of measures in this final rule, particularly those measures that change the SCS quotas and implement a rebuilding plan for blacknose sharks, NMFS made the decision in the 2010 Atlantic shark season specifications to keep the 2010 SCS fishing season closed until the effective date of this final rule. The current closure of the SCS fisheries is occurring during the time period when SCS fishermen typically fish for SCS species, and therefore, fishermen are experiencing negative economic impacts that will continue until the fishery opens. This final action would

relieve a restriction by allowing SCS fishermen to fish for blacknose sharks and non-blacknose SCS under the new commercial quotas, providing economic benefits to fishermen, dealers and others that rely on SCS products.

Paperwork Reduction Act

This final rule will require commercial and recreational fishermen fishing for smooth dogfish to obtain a smoothhound permit authorizing landings of smooth dogfish. This requirement is considered a collection-of-information requirement and is subject to review and approval by OMB under the PRA. NMFS has not yet submitted an application for this collection-of-information to OMB for approval. The implementation of this requirement is delayed pending approval. Once the application is submitted, comments regarding the public burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, should be sent to NMFS (*see* **ADDRESSES**) and by e-mail to *David_Rostker@omb.eop.gov,* or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) requires that Federal agency activities be consistent to the maximum extent practicable with the enforceable policies of Federally-approved State coastal management programs (CMPs). NMFS has determined that the final and selected alternatives in this final rule and Amendment 3 will be implemented in a manner consistent to the maximum extent practicable with the enforceable policies of the coastal States in the Atlantic, Gulf of Mexico, and Caribbean that have Federally approved CMPs. In July 2009, NMFS provided all coastal States along the eastern seaboard and the Gulf of Mexico (21 States), including Puerto Rico and the U.S. Virgin Islands with a copy of the proposed rule and draft EIS for Amendment 3 to the Consolidated HMS FMP. Under 15 CFR 930.41, States and/or U.S. territories have 60 days to respond after the receipt of the consistency determination and supporting materials. States can request an extension of up to 15 days. If a response is not received within those time limits, NMFS can presume concurrence (15 CFR 930.41(a)). Seven States replied within the response time period that the proposed regulations were consistent, to the extent practicable, with the enforceable policies of their CMPs (Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, Mississippi, and Puerto Rico). Another ten States (Maine, New Hampshire, Rhode Island, Massachusetts, New York, Maryland, South Carolina, Alabama, Louisiana, and the U.S. Virgin Islands) did not respond within the response time period, nor did they request an extension in the comment period; therefore, NMFS presumes their concurrence. The State of Florida, the State of Georgia, and the State of North Carolina replied that the proposed rule was not consistent with the enforceable policies of their respective State's coastal zone management program.

A. Response to the State of Florida

The State of Florida in an October 9, 2009, letter stated that the recreational SCS preferred alternative in the DEIS, Alternative D4, was not consistent with the State's enforceable policies because the State already has in place adequate protection of blacknose sharks in State waters. As described above, based on public comment and because the No Action alternative is effectively the same as a prohibition of blacknose sharks due to the current 54 inch size limit in the recreational fishery, NMFS no longer prefers alternative D4 in the FEIS. The preferred alternative in the FEIS and this final rule is D1, the status quo alternative. The letter from the State of Florida noted that if NMFS changed the preferred alternative to D1, Amendment 3 would be consistent with the State's CMP. Therefore, NMFS considers the actions in the FEIS to be consistent with the State of Florida's CMP.

B. Response to the State of Georgia

In a September 10, 2009, letter, the State of Georgia stated that Georgia Department of Natural Resources (GDNR) had determined that the provisions in the draft Amendment 3 to the Consolidated HMS FMP (Amendment 3) are conditionally consistent with the Georgia Coastal Management Program (GCMP) to the maximum extent practicable. This determination is conditional upon the preferred alternatives included in the FEIS for Amendment 3. To be consistent with the GCMP, the letter maintains that the preferred alternatives must include: A4 and B3 (reduced blacknose shark quota and a prohibition on gillnets in the southern shark fishery); C5, C6, E3, and E4 (international shortfin mako shark management measures and encouraging the live release of shortfin mako sharks); D1 (the No Action alternative with respect to the recreational blacknose shark fishery); and F2 (bring smooth dogfish under Federal management). Thus, with the exception of alternatives A4 and B3, all of the final action in the FEIS of Amendment 3 and this final rule are supported by GDNR.

As detailed in Chapters 2 and 4 of the FEIS for Amendment 3, NMFS altered the preferred alternative in the FEIS and this final rule to maintain the current blacknose shark recreational size and retention limits (D1) and to allow gillnet gear in all areas of the Atlantic shark fishery. Based upon public comment, revised SEFSC blacknose shark weight data, observer data, and additional gillnet selectivity analyses, NMFS changed the preferred alternatives in the FEIS to include A6 and B1 rather than A4 and B3. These two preferred alternatives will establish the blacknose shark quota at 19.9 mt dw, maintain a non-blacknose SCS quota at average current landings, and continue to authorize gillnet gear in the southern shark fishery. Due to the change of the commercial gear preferred alternative, the State of Georgia objects to the consistency determination because of the continuing operation of the shark gillnet fishery in Federal waters, which could potentially impact resources shared by adjacent State waters. Additionally, the State of Georgia has concerns regarding the impact of the shark gillnet fishery on threatened and endangered species. The data currently available for the shark gillnet fishery indicate low rates of bycatch and bycatch mortality of protected species and other finfish in this fishery compared to other HMS fisheries (*see* Chapter 3 the FEIS).

While NMFS acknowledges the concern of protected resources interactions with gillnet gear, under the Magnuson-Stevens Fishery Conservation and Management Act's (16 U.S.C. 1801 *et seq.*) National Standards (NS), the Agency must, among other things, implement conservation and management measures to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery; base its actions upon the best scientific information available; manage stocks throughout their range to the extent practicable; minimize adverse economic impacts on fishing communities to the extent practicable; and minimize bycatch and bycatch mortality to the extent practicable. 16 U.S.C. 1851(a)(1), (2), (3), (8), and (9). In the preparation of the FEIS, NMFS

performed an analysis on the SCS gillnet fishery using updated average blacknose shark weights from the SEFSC and observer data. This analysis concluded that SCS gillnet fishermen were able to selectively target certain SCS species while avoiding blacknose sharks. Furthermore, when the shark gillnet fishery catches blacknose sharks, they are usually larger, more mature individuals than those caught in other gears. These two findings, in concert, make for less significant ecological benefits of prohibiting gillnets than previously believed. The significant adverse economic and social impacts resulting from a geographical ban on gillnets in the shark fishery outweigh the ecological benefits to blacknose sharks. Therefore, NMFS is not prohibiting the use of gillnet gear at this time. This finding is consistent with NS 2 which requires that management measures be based on the best scientific information available including the BiOp. Based on this information and combined with the Magnuson-Stevens Act legal requirements noted in this paragraph, under the CZMA and NOAA regulations, NMFS is consistent to the maximum extent practicable with Georgia's CMP enforceable policies.

On May 5, 2008, NMFS' Southeast Regional Office of Protected Resources Division completed a BiOp regarding the actions under Amendment 2 to the Consolidated HMS FMP. The BiOp, concluded that the continued authorization of the gillnet fishery was likely to adversely affect, but not likely to jeopardize the continued existence of, green, Kemp's ridley, leatherback, and loggerhead sea turtles and smalltooth sawfish. The opinion also concluded that marine mammals, the Gulf of Maine Atlantic salmon Distinct Population Segment (DPS), shortnose sturgeon, Gulf sturgeon, and right whale critical habitat were not likely to be adversely affected by the action. The Atlantic shark fishery continues to be in compliance with the terms and conditions of the ITS in the 2008 BiOp. The SCS measures in Amendment 3 are expected to reduce fishing effort and reduce the fishery's impact on ESA-listed species in the action area.

Currently, all shark gillnet vessels are required to carry a vessel monitoring system (VMS) and are subject to observer coverage during and outside of the right whale calving season. In addition, more stringent management measures were put in place under a final rule for the Atlantic Large Whale Take Reduction Plan (ALWTRP) (72 FR 34632, June 25, 2007) that prohibits all gillnet fishing from November 15 through April 15 of each year in Federal waters off Georgia. NMFS will continue to work with existing take reduction teams and relevant Fishery Management Councils to examine methods of reducing bycatch. Thus, NMFS finds that the final regulations implemented in this amendment are consistent with Georgia's CMP to the maximum extent practicable.

At this time, there is not sufficient information to support a closure of the shark gillnet fishery in Federal waters adjacent to Georgia, pursuant to the CZMA. This decision is consistent with NS 2 of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*), which requires that management measures be based on the best scientific information available including the BiOp. NMFS has determined that the final actions in Amendment 3 and its implementing rule are consistent to the maximum extent practicable with the enforceable policies of the GCMP.

C. Response to the State of North Carolina

The State of North Carolina in a September 15, 2009, letter stated that the provisions in Amendment 3 will only be consistent with the State's enforceable policies if NMFS selects alternatives A2 and F1 in the DEIS as the preferred alternatives in the FEIS. The State of North Carolina determined that any alternative other than A2 in the DEIS would disproportionately impact the State by removing fair and equitable distribution of SCS quota. As detailed in Chapter 2 of the FEIS, NMFS has changed the preferred alternative in the FEIS to allow for a restricted blacknose quota, but a higher non-blacknose SCS quota that is equal to the average annual landings of the non-blacknose SCS. The preferred alternative in this FEIS, alternative A6, includes a higher blacknose shark quota (19.9 mt dw) than that favored by the State of North Carolina (13.5 mt dw). The non-blacknose shark SCS quota in alternative A6 (221.6 mt dw) is not as high as that favored by the State of North Carolina (392.5 mt dw) but it is equal to the average annual landings and should not change the distribution of SCS quota.

In the preparation of the FEIS for Amendment 3, NMFS performed an analysis on the SCS gillnet fishery using updated average blacknose shark weights from the SEFSC and observer data. This analysis concluded that SCS gillnet fishermen were able to selectively target certain SCS species while avoiding blacknose sharks. Furthermore, when the shark gillnet fishery catches blacknose sharks, they are usually larger, more mature individuals than those caught in other gears. These two findings, in concert, make for less significant ecological benefits of prohibiting gillnets than previously believed. The significant negative economic and social impacts resulting from a geographical ban on gillnets in the shark fishery outweigh the ecological benefits to blacknose sharks. For these reasons, NMFS is not prohibiting the use of gillnet gear at this time. This finding is consistent with NS 2 which requires that management measures be based on the best scientific information available including the BiOp. Therefore, NMFS believes the preferred alternative in the FEIS is consistent with the State of North Carolina's CMP policies based on the higher non-blacknose SCS quota.

The State of North Carolina also determined that the smooth dogfish preferred alternative, Alternative F2, was inconsistent with the State's enforceable policies. The State's letter maintained that any alternative other than F1 would be inconsistent because the implementing measures would be contrary to the measures in State waters and ASMFC smooth dogfish measures, particularly in a fishery that primarily occurs in State waters. Based upon a July 6, 2009, memo to the ASMFC, data from North Carolina's Trip Ticket program shows that the smooth dogfish fishery is almost equally divided between State and Federal waters off the North Carolina coast with 46 percent of the catch occurring in Federal waters. NMFS recognizes that some of the smooth dogfish measures included in the FEIS are inconsistent with the ASMFC plan. However, NMFS decided not to mirror the ASMFC smooth dogfish measures because the ASMFC plan contains some provisions that NMFS cannot implement and does not include others that NMFS must implement.

On May 6, 2009, the ASMFC approved a smooth dogfish Addendum to the Atlantic Coastal Sharks FMP for public comment. Included within this Addendum is an exception for smooth dogfish to allow at-sea processing (*i.e.,* removal of shark fins while still onboard a fishing vessel), removal of recreational retention limits for smooth dogfish, and removal of the two hour net-check requirement for shark gillnets. The at-sea processing would require a five-percent fin to carcass ratio but would allow for the removal of fins at sea. The allowance for the removal of shark fins while still on board a fishing vessel and the removal of the two hour net-check requirement is inconsistent with current Federal regulations. NMFS considers the requirement to maintain shark fins

naturally attached through offloading to be necessary for species identification and to prevent shark finning. NMFS recently implemented the fins naturally attached regulation for all Atlantic sharks for enforcement and species identification reasons and would not want to open a loophole that would hinder enforcement. ASMFC has not established a quota for the smooth dogfish fishery and, as noted above, NMFS is required to establish ACLs and AMs under the Magnuson-Stevens Fishery Conservation and Management Act. In addition, ASMFC has not established a permitting requirement. NMFS believes that permitting is the first step to gaining information about the fishery and quantifying the universe of participants. Nonetheless, NMFS will continue to work with ASMFC to ensure Federal and State regulations are consistent to the extent practicable. Based on NMFS' existing legal requirements, NMFS is consistent with NC CMP enforceable policies to the maximum extent practicable.

During the DEIS public comment period, the smooth dogfish fishery participants noted significant concern regarding the fins attached requirement. NMFS believes that requiring that fins remain attached to the carcass is an important component of shark management. However, in order to mitigate potential impacts to the smooth dogfish fishery participants, NMFS is delaying implementation of the management measures in the preferred alternative until the beginning of the fishing season in 2012. The delayed implementation will allow NMFS time to continue outreach efforts with fishery participants and work with ASMFC to ensure that Federal and State regulations are consistent to the extent practicable.

For these reasons, NMFS finds the preferred alternatives in the FEIS, alternatives A6 and F2, to be consistent to the maximum extent practicable with the enforceable policies of the State of North Carolina's CMP.

Biological Opinion for Smooth Dogfish

The NMFS Southeast Regional Office Protected Resources Division (SERO PRD) has initially determined that management of smooth dogfish may adversely affect ESA-listed species including but not limited to endangered marine mammals such as the blue whale, fin whale, humpback whale, northern right whale, sei whale, and sperm whale; endangered sea turtles such as Hawksbill, Kemp's ridley, and leatherback; threatened sea turtles such as loggerhead and olive ridley; the endangered and threatened green sea turtle; and the endangered smalltooth sawfish. Based on this determination, NMFS initiated formal Section 7 consultation in accordance with the ESA, paragraph 7(a)(2), and provided SERO PRD with the information required by 50 CFR 402.14(c). As such, NMFS is currently engaged in formal consultation under the ESA with SERO PRD to determine the potential level of incremental effect that may arise as a result of the preferred management measures for smooth dogfish in this final rule. SERO PRD has not yet issued a final BiOp for the smooth dogfish fishery. NMFS will review that BiOp once it is issued and supplement the analysis in the FEIS if the consultation reveals any new or significant effects with respect to the interaction between gillnet fishing for smooth dogfish and protected species that were not considered in the 2008 BiOp for Amendment 2 to the 2006 Consolidated HMS FMP. This final rule incorporates by reference the 2008 BiOp for Amendment 2 to the 2006 Consolidated HMS FMP. A detailed discussion of the effects of such management relevant to the shark fishery is included in that document. NMFS will not take any management action with respect to the smooth dogfish fishery prior to its receipt of a final BiOp. It will maintain the status quo for management of the species prior to completion of formal Section 7 consultation and receipt of a final BiOp.

Summary of the Final Regulatory Flexibility Analysis

A final regulatory flexibility analysis (FRFA) was prepared for this rule. The FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS responses to those comments, and a summary of the analyses completed to support the action. The full FRFA is available from NMFS (*see* **ADDRESSES**). A summary is provided below.

A. Statement of the Need for and Objectives of the Final Rule

Section 604(a)(1) of the Regulatory Flexibility Act (RFA) requires a succinct statement of the need for and objectives of the rule. Chapter 1 of the FEIS fully describes the need for and objectives of this final rule. In brief, the management goals and objectives of the preferred management measures are to provide for the sustainable management of shark species under authority of the Secretary consistent with the requirements of the Magnuson-Stevens Act and other statutes which may apply to such management, including the ESA and MMPA. The primary mandate of the Magnuson-Stevens Act is for the Secretary to provide for the conservation and management of Atlantic HMS through development of an FMP for species identified for management and to implement the FMP with necessary regulations. In addition, the Magnuson-Stevens Act directs the Secretary, in managing HMS to prevent overfishing of species while providing for their OY on a continuing basis and to rebuild fish stocks that are considered overfished. The management objectives of the preferred management measures are to amend the 2006 Consolidated HMS FMP to ensure that overfishing of both the blacknose shark and shortfin mako is ended, the blacknose shark stock is rebuilt, and smooth dogfish is brought under the management jurisdiction of the Secretary.

B. A Summary of Significant Issues Raised by the Public Comments in Response to the IRFA

Section 604(a)(2) of the RFA requires a summary of the significant issues raised by the public comments in response to the IRFA, a summary of the assessment of the Agency of such issues, and a statement of any changes made in the rule as a result of such comments. NMFS received many comments on the proposed rule and draft Amendment 3 during the public comment period. A summary of these comments and the Agency's responses, including changes as a result of public comment, are included above. For general economic comments, *see* section H in "Responses to Comments." NMFS did not receive comments specifically on the IRFA.

C. A Description and an Estimate of the Number of Small Entities to Which the Rule Will Apply

Section 604(a)(3) of the RFA requires a description and estimate of the number of small entities to which the final rule would apply. NMFS considers all HMS permit holders to be small entities because they either had average annual receipts less than $4.0 million for fish-harvesting, average annual receipts less than $6.5 million for charter/party vessels, 100 or fewer employees for wholesale dealers, or 500 or fewer employees for seafood processors. These are the Small Business Administration (SBA) size standards for defining a small versus large business entity in this industry.

The preferred management measures would apply to the 502 commercial shark permit holders in the Atlantic shark fishery based on an analysis of permit holders on March 18, 2009. Of

these permit holders, 223 have directed shark permits and 279 hold incidental shark permits. Not all permit holders are active in the fishery in any given year. NMFS estimates that between 2004 and 2007, approximately 85 vessels with directed shark permits and 31 vessels with incidental shark permits landed SCS. A further breakdown of these permit holders is provided in Amendment 3.

The recreational measures proposed would also impact HMS Angling category and HMS Charter/Headboat category permit holders. In general, the HMS Charter/Headboat category permit holders can be regarded as small businesses, while HMS Angling category permits are typically obtained by individuals who are not considered small entities for purposes of the RFA. In 2008, 4,837 vessels obtained HMS Charter/Headboat category permits. Table 3.27 of Amendment 3 provides the geographic distribution of these permit holders by State and the overall historic trend in the number of permit holders since 2006. It is unknown what portion of these permit holders actively participate in shark fishing or market shark fishing services for recreational anglers.

Finally, the final action to add smooth dogfish under NMFS management and develop management measures, such as a Federal permit requirement, would impact an additional group of small entities. The number of entities impacted by this final action cannot be precisely measured at this time, since there is currently no Federal permit requirement for smooth dogfish fishing. Utilizing VTR and Coastal Logbook data, an estimate of the number of participants in the commercial smooth dogfish fishery can be calculated. Within the VTR data, a primarily Northeast U.S. reporting system, an average of 213 vessels reported smooth dogfish landings per year between 2004 and 2007. Within the Coastal Logbooks data, a primarily Southeast U.S. reporting system, an average of 10 vessels reported smooth dogfish landings per year between 2004 and 2007. From these data, an estimated 223 commercial vessels would require a smooth dogfish permit.

To estimate the number of recreational participants in the smooth dogfish fishery, NMFS examined MRFSS data. Based on MRFSS data from 2004 to 2007, an average of 58,161 smooth dogfish were retained per year by private anglers and charter/headboats (CHBs) in the recreational fishery. This number is the upper limit of participants in the Federal recreational fishery of the species, and is likely much lower since multiple individual fish are expected to have been caught by one fisherman. Furthermore, based on the life history of the species and the fact the most recreational fisherman are shore-based, the vast majority of smooth dogfish caught recreationally are in coastal, State waters and would not require a Federal HMS angling permit.

NMFS has determined that the final rule would not likely affect any small governmental jurisdictions. More information regarding the description of the fisheries affected, and the categories and number of permit holders can be found in Amendment 3.

D. A Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of the Final Rule

Section 604(a)(4) of the RFA requires a description of the projected reporting, record-keeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities which would be subject to the requirements of the report or record. The commercial and recreational measures for SCS and pelagic sharks would not introduce any new reporting and record-keeping requirements. However, alternative F2 would implement Federal management of smooth dogfish and establish a permit for commercial and recreational retention of smooth dogfish in Federal waters. The Federal permit requirement for smooth dogfish would allow NMFS to collect data regarding participants in the fishery and landings through Federal shark dealer reports. The Federal dogfish permit requirement would require a similar permit application to the other current HMS permits. The information collected on the application would include vessel information and owner identification and contact information. A modest fee to process the application and annual renewal would also likely be required. The cost would likely be similar to the current fee associated with the Atlantic Tunas General Category and Atlantic HMS Angling permits, which both cost $16 in 2009 to obtain.

E. A Description of the Steps Taken To Minimize the Significant Economic Impact on Small Entities

Section 604(a)(5) of the RFA requires a description of the steps the Agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and the reason that each one of the other significant alternatives to the rule considered by the Agency which affect small entities was rejected. These impacts are discussed below and in the FEIS for Amendment 3. Additionally, the RFA lists four general categories of "significant" alternatives that would assist an agency in the development of significant alternatives (5 U.S.C. 603(c)(1)–(4)). These categories of alternatives are: establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; use of performance rather than design standards; and, exemptions from coverage of the rule for small entities.

In order to meet the objectives of this final rule, consistent with the Magnuson-Stevens Act and ESA, NMFS cannot exempt small entities or change the reporting requirements only for small entities because all the entities affected are considered small entities. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act. Thus, there are no alternatives considered under the third category. As described below, NMFS analyzed several different alternatives in this rulemaking and provides rationale for identifying the final actions to achieve the desired objective.

The alternatives considered and analyzed have been grouped into three major categories. These categories include commercial measures, recreational measures, and smooth dogfish-related measures. Under commercial measures, alternatives for SCS commercial quotas, gear restrictions, and pelagic shark effort controls were considered and analyzed. The SCS commercial quota alternatives include: (A1) Maintain the existing SCS quota; (A2) establish a new SCS quota of 392.5 mt dw and a blacknose commercial quota of 13.5 mt dw; (A3) establish a new SCS quota of 42.7 mt dw and a blacknose commercial quota of 16.6 mt dw; allow all current authorized gears for sharks; (A4) establish a new SCS quota of 56.9 mt dw and a blacknose commercial quota of 14.9 mt dw; remove shark gillnet gear as an authorized gear for sharks; (A5) close the SCS fishery; and (A6) establish a

new SCS quota of 221.6 mt dw and a blacknose commercial quota of 19.9 mt dw. The commercial gear restrictions alternatives include: (B1) Maintain current authorized gears for commercial shark fishing; (B2) close shark gillnet fishery; remove gillnet gear as an authorized gear type for commercial shark fishing; and (B3) close the gillnet fishery to commercial shark fishing from South Carolina south, including the Gulf of Mexico and the Caribbean Sea. The pelagic shark effort controls alternatives include: (C1) Keep shortfin mako sharks in the pelagic shark species complex and do not change the quota; (C2) remove shortfin mako sharks from pelagic shark species quota and establish a shortfin mako quota; (C3) remove shortfin mako sharks from pelagic shark species complex and place this species on the prohibited shark species list; (C4a) establish a minimum size limit for shortfin mako sharks that is based on the size at which 50 percent of female shortfin mako sharks reach the sexual maturity or 32 inches interdorsal length (IDL); (C4b) establish a minimum size limit for shortfin makos that is based on the size at which 50 percent of male shortfin mako sharks reach the sexual maturity or 22 inches IDL; (C5) take action at the international level to end overfishing of shortfin mako sharks; and (C6) promote the release of shortfin mako sharks brought to fishing vessels alive.

Under recreational measures, NMFS considered alternatives for both SCS and pelagic sharks. The recreational measures considered for SCS include: (D1) Maintain the current recreational retention and size limit for SCS; (D2) modify the minimum recreational size for blacknose sharks based on their biology, (D3) increase the retention limit for Atlantic sharpnose sharks based on current catches; and (D4) prohibit retention of blacknose sharks in recreational fisheries. The recreational measures considered for pelagic sharks include: (E1) Maintain the current recreational measures for shortfin mako sharks; (E2a) establish a minimum size limit for shortfin makos that is based on the size at which 50 percent of female shortfin mako sharks reach sexual maturity or 108 in FL; (E2b) establish a minimum size limit for shortfin makos that is based on the size at which 50 percent of male shortfin mako sharks reach sexual maturity or 73 inches FL; (E3) take action at the international level to end overfishing of shortfin mako sharks; (E4) promote the release of shortfin mako sharks brought to fishing vessels alive; and (E5) prohibit retention of shortfin mako sharks in recreational fisheries (catch and release only).

Finally, NMFS also considered alternatives for managing smooth dogfish. These alternatives include: (F1) Do not add smooth dogfish under NMFS management, (F2) add smooth dogfish under NMFS management and establish a Federal permit requirement, and (F3) add smooth dogfish under NMFS management and mirror management measures implemented in the ASMFC Interstate Shark FMP. NMFS considered several alternatives for adding smooth dogfish under NMFS management. These alternatives include: (F2 a1) Establish a smooth dogfish quota that is equal to the average annual landings from 1998–2007 (950,859 lb dw); (F2 a2) establish a smooth dogfish quota equal to the maximum annual landing between 1998–2007 (1,270,137 lb dw); (F2 a3) establish a smooth dogfish quota equal to the maximum annual landing between 1998–2007 plus one standard deviation (1,423,727 lb dw); (F2 b1) establish a separate smooth dogfish set-aside quota for the exempted fishing program of 6 mt ww; and (F2 b2) establish a smooth dogfish set-aside quota for the exempted fishing program and add it to the current 60 mt ww set aside quota for the exempted fishing program.

The potential impacts these alternatives may have on small entities have been analyzed and are discussed in the following sections. The final actions include: A6, B1, C5, C6, D1, E3, E4, F2, and preferred sub-alternatives F2 a4 and F2 b1. The economic impacts that would occur under these actions were compared with the other alternatives to determine if economic impacts to small entities could be minimized while still accomplishing the stated objectives of this rule.

Under the No Action alternative, A1, there would be no additional economic impacts to directed and incidental shark permit holders as the average annual gross revenues from SCS landings, including blacknose shark landings, would be the same as the status quo. The average annual gross revenues from 2004 through 2007 from all SCS meat and fins was $830,918. Based on data from 2004 to 2007 for directed and incidental shark permit holders that landed non-blacknose SCS, the average directed shark permit holder earned $9,765 in average annual gross revenues, and the average incidental shark permit holder earned $687 in average annual gross revenues from non-blacknose SCS landings. For those permit holders that actually landed blacknose shark during that same time period, the average directed shark permit holder earned $3,638 in average annual gross revenues, and the average incidental shark permit holder earned $1,721 in average annual gross revenues from blacknose shark landings. These revenues are not expected to be impacted by alternative A1. However, since alternative A1 would not reduce blacknose shark mortality to the level needed to rebuild blacknose sharks, NMFS did not select this alternative at this time.

Under the revised alternative A2, NMFS would remove blacknose sharks from the SCS quota and create a blacknose shark-specific quota of 12.1 mt dw and a separate "non-blacknose SCS" quota, which would apply to finetooth, Atlantic sharpnose, and bonnethead sharks, of 221.6 mt dw. NMFS anticipates that non-blacknose SCS landings should not decrease as the non-blacknose SCS quota would only be reduced by the average blacknose shark landings. Therefore, the 68 directed and 29 incidental shark permit holders that had non-blacknose SCS landings would not be affected by the new non-blacknose SCS quota. However, the blacknose shark quota would be a 78-percent reduction based on average landings from 2004–2007. Average annual gross revenues for the blacknose shark landings for the entire fishery would decrease from $172,110 under the No Action alternative down to $33,611 under alternative A2, which is an 80-percent reduction in average annual gross revenues for blacknose sharks. Thus, the 44 directed and 7 incidental shark permit holders that had blacknose shark landings would be affected by the new blacknose shark quota. As directed permit holders landed the majority of blacknose shark under the No Action alternative, it is anticipated that directed permit holders would experience the largest impacts under alternative A2. The decrease in average annual gross revenues for directed and incidental permit holders would depend on the specific trip limit associated with the blacknose quota established under A2. However, because discards would continue as fishermen directed on non-blacknose SCS, regardless of the retention limits, overall mortality for blacknose sharks would still be above the commercial allowance of 7,094 blacknose sharks/year, even if the retention of blacknose sharks was prohibited. Therefore, NMFS did not select this alternative at this time.

Under the revised alternative A3, NMFS would remove blacknose sharks from the SCS quota and create a blacknose shark-specific quota of 19.9 mt dw and a separate "non-blacknose SCS" quota of 110.8 mt dw, which

would apply to finetooth, Atlantic sharpnose, and bonnethead sharks. NMFS determined that by reducing the overall SCS fishery, NMFS would reduce the level of blacknose shark discards such that the total blacknose shark mortality would stay below the commercial allowance.

While trip limits would not change for non-blacknose SCS for directed and incidental permit holders (*i.e.,* no trip limit for directed fishermen and a 16 non-blacknose SCS/pelagic sharks combined trip limit for incidental fishermen), given the reduction in the non-blacknose SCS quota, NMFS anticipates that the 68 directed and 29 incidental permit holders that had non-blacknose SCS landings would be affected by the new non-blacknose SCS quota. Average annual gross revenues for non-blacknose SCS landings for the entire fishery are anticipated to be $310,222. This is a 53-percent reduction in average annual gross revenues compared to average annual gross revenues expected under the No Action alternative, A1. Since directed permit holders land approximately 97 percent of the non-blacknose SCS landings as explained in alternative A1, NMFS anticipates that directed permit holders would lose more in average annual gross revenues from non-blacknose SCS landings compared to incidental permit holders under alternative A3. Average annual gross revenues for directed shark permit holders of non-blacknose SCS under alternative A3 would be $300,916, which is a loss of $343,200 in average annual gross revenues or a 53-percent reduction in average annual gross revenues from the average annual gross revenues expected under the No Action alternative, A1. Spread amongst the directed shark permit holders that land non-blacknose SCS, this is an anticipated loss of $5,047 in average annual gross revenues from non-blacknose SCS landings per permit holder. Incidental permit holders land approximately 3 percent of the non-blacknose SCS. Average annual gross revenues for incidental shark permit holders of non-blacknose SCS under alternative A3 would be $9,307, which is a loss of $10,614 in average annual gross revenues or also a 53 percent reduction in average annual gross revenues from the average annual gross revenues expected under the No Action alternative, A1. Spread amongst the incidental shark permit holders that land non-blacknose SCS, this is an anticipated loss of $366 in average annual gross revenues from non-blacknose SCS landings per permit holder.

The blacknose shark quota would be reduced to 19.9 mt dw based on average landings from 2004–2008. In addition, in order to keep the total mortality of blacknose sharks below the commercial allowance for the HMS Atlantic shark fishery, incidental shark permit holders would not be allowed to retain blacknose sharks under alternative A3. Thus, the 44 directed and 7 incidental shark permit holders that had blacknose shark landings would be affected by the new blacknose shark quota. Since incidental permit holders would not be able to retain blacknose sharks, the total blacknose shark quota would be available only to directed shark permit holders. Average annual gross revenues for the blacknose shark landings for the directed fishery would decrease from $160,062 under the No Action alternative down to $51,409 under alternative A3, which is a loss of $108,653 or a 68-percent reduction in average annual gross revenues for blacknose sharks for directed shark fishermen. Spread amongst the directed shark permit holders that land blacknose sharks, there would be an anticipated loss of $2,469 in average annual gross revenues from blacknose landings per permit holder. However, since incidental shark permit holders would not be able to retain blacknose sharks, they would lose an estimated $8,179 in average annual gross revenues from blacknose shark landings. Spread amongst the incidental permit holders that land blacknose sharks, there would be an anticipated loss of $1,168 in average annual gross revenues from blacknose landings per permit holder.

Given the large reduction in the non-blacknose SCS quota under alternative A3, which would affect more directed and incidental permit holders compared to the smaller reduction in the non-blacknose SCS quota under alternative A6, NMFS did not select alternative A3 at this time.

Under alternative A4, NMFS would remove blacknose sharks from the SCS quota and create a blacknose shark-specific quota and a separate "non-blacknose SCS" quota equal to 55.4 mt dw, which would apply to finetooth, Atlantic sharpnose, and bonnethead sharks. NMFS determined that by reducing the overall SCS fishery, NMFS could reduce the level of blacknose shark discards such that the total blacknose shark mortality would stay below the commercial allowance. NMFS would establish a blacknose-specific quota of 15.9 mt dw, which is the amount of blacknose sharks that would be landed while the non-blacknose SCS quota is taken; however, incidental fishermen would not be allowed to retain any blacknose sharks under alternative A4. In addition, this alternative assumes that gillnet gear would not be used to harvest sharks as explained under alternatives B2 and B3.

While trip limits would not change for non-blacknose SCS for directed and incidental permit holders (*i.e.,* no trip limit for directed fishermen and a 16 non-blacknose SCS/pelagic sharks combined trip limit for incidental fishermen), given the reduction in the non-blacknose SCS quota, NMFS anticipates that the 41 directed and 22 incidental shark permit holders that did not use gillnet gear to land non-blacknose SCS would be affected by the new non-blacknose SCS quota. Average annual gross revenues for non-blacknose SCS landings for the entire fishery are anticipated to be $155,111. This is a 76-percent reduction in average annual gross revenues compared to the average annual gross revenues expected under the No Action alternative, A1. Since directed shark permit holders land approximately 97 percent of the non-blacknose SCS landings as explained in alternative A1, NMFS anticipates that directed shark permit holders would lose more in average annual gross revenues from non-blacknose SCS landings compared to incidental shark permit holders under alternative A4. Average annual gross revenues for directed shark permit holders of non-blacknose SCS under alternative A4 would be $150,458, which is a loss of $493,658 in average annual gross revenues or a 77-percent reduction in average annual gross revenues from the average annual gross revenues expected under the No Action alternative, A1. Spread amongst the directed shark permit holders that did not use gillnet gear to land non-blacknose SCS, there could be an anticipated loss of $12,040 in average annual gross revenues from non-blacknose SCS landings per permit holder. Incidental shark permit holders land approximately 3 percent of the non-blacknose SCS landings as explained in alternative A1. Average annual gross revenues for incidental shark permit holders of non-blacknose SCS under alternative A4 would be $4,653, which is a loss of $15,268 in average annual gross revenues or a 77-percent reduction in average annual gross revenues from the average annual gross revenues expected under the No Action alternative, A1. Spread amongst the incidental shark permit holders that did not use gillnet gear to land non-blacknose SCS, there could be an anticipated loss of $694 in average annual gross revenues from non-

blacknose SCS landings per permit holder.

The blacknose shark quota would also be a 72-percent reduction based on average landings from 2004 though 2008. In addition, in order to keep the total mortality of blacknose sharks below the commercial allowance for the HMS Atlantic shark fishery, incidental shark permit holders would not be allowed to retain blacknose sharks under alternative A4. Thus, the 15 directed and 5 incidental shark permit holders that did not use gillnet gear to land blacknose sharks would be affected by the new blacknose shark quota. Since incidental shark permit holders would not be able to retain blacknose sharks, the total blacknose shark quota would be available only to directed shark permit holders. Average annual gross revenues for the blacknose shark landings for the directed fishery would decrease from $160,062 under the No Action alternative down to $41,075 under alternative A4, which is a loss of $118,987 or a 74-percent reduction in average annual gross revenues from blacknose sharks for directed shark permit holders. Spread amongst the directed shark permit holders that did not use gillnet gear to land blacknose sharks, there could be an anticipated loss of $7,932 in average annual gross revenues from blacknose landings per vessel. Incidental shark permit holders would lose an estimated $12,048 in average annual gross revenues from blacknose shark landings. Spread amongst the incidental shark permit holders that did not use gillnet gear to land blacknose sharks, there could be an anticipated loss of $1,791 in average annual gross revenues from blacknose landings per permit holder.

By reducing effort in the overall SCS fishery under Alternative A4, NMFS could reduce the level of blacknose shark discards such that the total blacknose shark mortality would stay below the commercial allowance needed to rebuild the stock. Gillnet fishermen would be affected the most by alternative A4 in combination with alternative B2 or B3, with estimated gross revenue losses between $377,928 and $365,067 from lost non-blacknose SCS and blacknose landings.

Alternative A5 would close the entire SCS commercial shark fishery, prohibiting the landing of any SCS, including blacknose sharks. Thus, this alternative would eliminate landings of all SCS, including finetooth, Atlantic sharpnose, bonnethead, and blacknose sharks. This would have negative economic impacts on the average 85 directed shark permit holders, and the average 31 incidental shark permit holders that had SCS landings during 2004–2007. This would result in a loss of average annual gross revenues of $664,037 for non-blacknose SCS and $172,110 from blacknose shark landings for a total loss of $830,918 in average annual gross revenues from SCS landings. Directed shark permit holders would lose $644,116 in average annual gross revenues from non-blacknose SCS landings and $160,062 in average annual gross revenues from blacknose shark landings for a total of $805,990 in average annual gross revenues. Spread among the 85 directed shark permit holders that landed SCS, this could result in a loss in average annual gross revenues of $9,482 per permit holder.

Incidental shark permit holders would lose $19,921 in average annual gross revenues from non-blacknose SCS landings and $12,048 in average annual gross revenues from blacknose shark landings for a total of $31,969 in average annual gross revenues under alternative A5. Spread among the 31 incidental shark permit holders that landed SCS, this could result in a loss in average annual gross revenues of $1,031 per permit holder.

In addition, as gillnet gear is the primary gear used to target SCS, it is assumed that directed shark gillnet fishing would end, except for fishermen that use gillnet gear to strikenet for blacktip sharks. Approximately 11 directed shark permit holders use gillnet gear to land LCS. This would result in a decrease in LCS landings of 102,171 lb dw and a decrease in average annual gross revenues of $107,280. Spread among the 11 directed shark permit holders that land LCS with gillnet gear, this alternative would result in a loss in average annual gross revenues of $9,753 per permit holder.

While this alternative could reduce blacknose mortality below the commercial allowance of 44,853.8 lb dw, it would also completely eliminate the fishery for all SCS. Of the alternatives analyzed, alternative A5 would result in the most significant economic impacts to small entities. In addition, this alternative would severely curtail data collection on all SCS that could be used for future stock assessments. Thus, NMFS did not select this alternative at this time.

Alternative A6, the final action, combines parts of alternatives A2 and A3 that would establish a blacknose species-specific quota of 19.9 mt dw and a non-blacknose SCS quota of 221.6 mt dw. NMFS designed this alternative to minimize economic impacts on shark fishermen and other participants in the fishery related to SCS quota reductions. Alternative A6 would set the non-blacknose SCS quota at a level equal to the average annual landings from 2004 through 2008, and the blacknose quota at a level that is a 64 percent reduction of the average landings for that species over the same time period. This proposal comes in response to recently updated SEFSC data used for analysis, and in response to concerns raised by the commercial and scientific communities during the comment period for the DEIS. Under alternative A6 all currently authorized gears for shark fishing would be allowed in the fishery.

Under the non-blacknose SCS quota proposed in alternative A6, those fishermen with the 68 directed shark permits and 29 incidental shark permits that had non-blacknose SCS landings would be expected to fish as they currently do under the No Action alternative, and shark dealers and other entities that deal with shark products would be expected to operate as they do under the No Action alternative. Average annual gross revenues for non-blacknose SCS landings for the entire fishery are anticipated to decline by approximately 6-percent compared to the No Action alternative, to $620,445, under alternative A6, representing a revenue loss of $43,593. Average annual gross revenue for blacknose shark landings for the entire fishery is expected to decline to $55,278, a loss of $116,832.

Since directed shark permit holders accounted for 97 percent of the landings for non-blacknose SCS, the total revenue for these fishermen would decrease by 6 percent to $601,832, a loss of $42,284 from the No Action alternative non-blacknose directed shark permit revenue total of $644,116. Spread across the 68 directed shark permit holders that reported non-blacknose landings, this would result in a per boat decrease of $622 ($42,284/68 directed vessels = $622). With incidental shark permit holders accounting for 3 percent of the annual revenue from non-blacknose landings based on alternative A6, there would be a decrease in total revenue of $1,308, or 7 percent, to $18,613 from the No Action Alternative of $19,921. This would result in a loss of revenue from non-blacknose SCS per incidental vessel of $45 ($1,308/29 incidental vessels = $45). Therefore, social and economic impacts of the non-blacknose SCS quota on fishermen with directed and incidental shark permit would be slightly negative under alternative A6.

Under the blacknose shark quota 19.9 mt dw, the 44 directed shark permit holders and 7 incidental shark permit holders that had blacknose shark landings would experience direct

negative social impacts, as they would most likely have to fish in other fisheries to make up for lost blacknose landings or leave the fishery altogether. Other entities that deal with blacknose shark products, such as shark dealers, would indirectly experience negative social impacts as they would also have to change their business practices to make up for lost blacknose shark product. In total, average annual gross revenues for the blacknose shark landings for the directed shark permit holders would decrease from $160,062 under the No Action alternative down to $51,409 under alternative A6, which is a loss of $108,653 or a 68-percent reduction in average annual gross revenues for blacknose sharks for directed shark fishermen. Spread amongst the directed shark permit holders that land blacknose sharks, there could be an anticipated loss of $2,469 in average annual gross revenues from blacknose landings per permit holder ($108,653/44 directed vessels = $2,469 per vessel). For incidental shark permit holders the 68-percent reduction in blacknose shark landings would translate into an average annual gross revenue of $3,869, which would be a loss of income of $8,179 from the annual average of $12,048 under the No Action alternative. Spread amongst the 7 incidental shark permit holders, this would result in an annual loss of $1,168 per permit holder ($8,179/7 incidental vessels = $1,168).

Under alternative A6, if either the non-blacknose SCS quota (221.6 mt dw) or blacknose shark quota (19.9 mt dw), reached 80 percent of the available landings, NMFS would close both fisheries for the rest of the season. If a future stock assessment determines that blacknose sharks are continuing to be overfished or that overfishing is still occurring NMFS could make regulatory changes as needed in future management actions. These changes may include, but are not limited to reducing the blacknose shark quota and/or the non-blacknose SCS quota, and implementing daily blacknose catch limits. Alternative A6 would meet the rebuilding requirements of the Magnuson-Stevens Act by addressing the overfished status and overfishing of blacknose sharks by reducing the blacknose shark quota to 19.9 mt dw. While NMFS recognizes that there may be negative social and economic impacts on parts of the fishing community due to the reduced blacknose shark quota, in selecting the quota of 221.6 mt dw for the non-blacknose SCS fishery, NMFS is minimizing those negative socioeconomic impacts, especially since the bulk of the catch in the SCS fishery comes from shark species that have been determined to not be overfished or undergoing overfishing (*i.e.* finetooth, sharpnose, and bonnethead sharks). Therefore, NMFS is finalizing alternative A6 at this time.

Alternative A6 would result in positive ecological impacts to blacknose sharks by reducing mortality of this species below the commercial allowance of 7,094 blacknose sharks per year that is necessary for this stock to rebuild with a 70 percent probability by 2027 consistent with the rebuilding plan and the objectives of this amendment. Alternative A6 would also reduce effort and mortality in the non-blacknose SCS fishery, to a level that is equal to the average landings for these species for the years 2004 through 2008. Alternative A1 (No Action alternative) does not reduce effort or mortality in the commercial SCS fishery, so does not address the overfished status or overfishing of blacknose sharks. The scenarios under alternative A2 that eliminate gillnets as an authorized gear and those that eliminate retention of blacknose sharks altogether, fail to meet the goal of reducing blacknose shark mortality, due to the high number of discards of blacknose sharks from those gears that would continue to operate in the fishery. For those scenarios under alternative A2 that would continue to allow gillnets to be retained as an authorized gear, the necessary reduction in blacknose sharks is met, but the quota is exceeded. Under alternative A3 the goal of reducing the blacknose shark mortality to necessary levels is obtained, but due to the significant reduction of the non-blacknose SCS quota, there would be a 67 percent increase in discard mortality of non-blacknose SCS. Both alternatives A4 and A5 would achieve the necessary blacknose shark mortality reduction, but the social and economic impacts on the commercial shark permit holders from the reduced quotas would be significant.

Compared to the other alternatives analyzed, alternative A6 would result in the least negative social and economic impacts on the participants of the SCS commercial fishery while still meeting the goal of reducing mortality and rebuilding blacknose sharks. Under alternative A6, the non-blacknose SCS quota of 221.6 mt dw would result in a loss of $43,592 in average annual revenues for all permit holders. The reduced blacknose quota of 19.9 mt dw would result in a loss of $116,833 for all permit holders. Under alternative A2, directed and incidental permit holders would lose $138,499 in average annual revenue, from the blacknose quota of 12.1 mt dw. Under alternative A3 as in alternative A6, the blacknose quota of 19.9 mt dw would result in an anticipated loss in average annual revenues for directed and incidental permit holders. The non-blacknose quota of 110.8 mt dw, under alternative A3, would result in a loss of average annual revenues to all permit holders of $275,103. Under alternative A4, the reduction in blacknose quota to 15.9 mt dw would result in an average annual loss of revenues for all permit holders of $124,853. With the prohibition on gillnets in alternative A4, all permit holders would lose approximately $287,524 from the reduced non-blacknose SCS quota and many would have to completely change the way they fished, or to leave the fishery entirely. Because alternative A5 would completely close the SCS fishery, those directed and incidental permit holders that land non-blacknose SCS and blacknose sharks would be forced to move into other fisheries and would likely create pressure on other commercial species. While alternative A1, the No Action alternative, would have the least negative social and economic impacts on the SCS commercial fishery participants, this alternative does not reduce mortality of blacknose sharks in order to meet the rebuilding goals of this amendment or stop overfishing of this stock.

Under alternative B1, the final action, NMFS would maintain the current gear restrictions for rod and reel, gillnet, and BLL gear. Between the DEIS and the FEIS, NMFS switched to this alternative as the preferred alternative to minimize the economic impacts to fishermen and other participants in the fishery. The economic impacts of alternative B1 would be the same as the status quo, and no negative economic impacts would be anticipated under alternative B1. On average from 2004–2007, the directed and incidental shark permit holders earned average annual gross revenues from SCS landings of $833,634, while the directed and incidental permit holders that landed LCS earned larger gross revenues of $3,328,663. The smooth dogfish fishery is smaller than the other fisheries and only has average annual gross revenues of $371,786 for State and Federally permitted fishermen reporting to the ACCSP. Based on this alternative, the average annual gross revenues of these fisheries would remain the same as the status quo. The average number of directed and incidental shark permit holders that reported SCS landings in the Coastal Fisheries logbook from

2004–2007 were 116 (85 directed and 31 incidental shark permit holders), and the LCS fishery had an annual average of 162 permit holders (129 directed and 33 incidental shark permit holders) reporting LCS landings in the Coastal Fisheries logbook from 2004–2007. The number of permit holders would not be impacted by the No Action alternative. NMFS selects this least cost SCS commercial gear restriction alternative.

Under alternative B2, NMFS would remove gillnet gear as an authorized gear type for commercial shark fishing. This alternative would have significant negative economic impacts by potentially affecting 30 directed and 7 incidental shark permit holders. On average, directed shark permit holders landed 289,546 lb dw of SCS with gillnet gear. This is equivalent to $365,955 in lost average annual gross revenues from SCS landings for directed shark permit holders. Based on average ex-vessel prices per pound from 2004–2007, directed shark permit holders made $807,792 in average annual gross revenues from SCS landings. On average, incidental shark permit holders landed 9,465 lb dw of SCS with gillnet gear. This is equivalent to $11,973 in lost average annual gross revenues from SCS landings for incidental shark fishermen due to the prohibition of gillnet gear. Based on average ex-vessel prices per pound from 2004–2007, incidental shark permit holders made $25,843 from SCS landings under the status quo. This represents a 45 percent reduction in SCS revenues for directed shark permit holders and a 46 percent reduction in SCS revenues for incidental shark permit holders compared to the No Action alternative, alternative B1.

This alternative would have a minimal negative economic impact on the LCS fishery. Only 11 directed and 5 incidental shark permit holders out of the 162 total shark permit holders would be affected. On average, directed shark permit holders landed 102,171 lb dw of LCS with gillnet gear. This is equivalent to $107,280 in lost average annual gross revenues from LCS landings (3 percent reduction). On average, incidental shark permit holders landed 1,961 lb dw of LCS with gillnet gear. This is equivalent to $2,059 in lost average annual gross revenues from LCS landings for incidental shark permit holders due to the prohibition of gillnet gear. In total ($109,339), this is approximately 3 percent of the gross revenues for the entire LCS fishery under the status quo (*i.e.,* $3,328,663).

Gillnets are also the primary gear type used to catch smooth dogfish. Within the VTR data, a primarily Northeast U.S. reporting system, an average of 213 vessels reported smooth dogfish landings per year between 2004 and 2007. Within the Coastal Fisheries Logbooks data, a primarily Southeast U.S. reporting system, an average of 10 vessels reported smooth dogfish landings per year between 2004 and 2007. From these data, an estimate of 223 vessels would require a smooth dogfish permit; however, as fishermen are currently not required to have a permit to retain smooth dogfish, this could be an underestimate of the number of fishermen that would require a Federal commercial permit for smooth dogfish in the future. The average total annual landings from 1998–2007 was 950,859 lb dw (by State and Federally permitted fishermen reporting to the ACCSP, however, since fishermen do not have to currently report smooth dogfish landings, this could be an underestimate of total landings, and thus, an underestimate of average annual gross revenues for this fishery). Based on average ex-vessel prices per pound from 2004–2007, average annual gross revenues for the entire smooth dogfish fishery totaled $371,786 from smooth dogfish landings. Based on the preferred alternative F2, which would require fishermen who fish for smooth dogfish in Federal waters to obtain a Federal smooth dogfish permit, then under alternative B2, those fishermen would not be able to use gillnet gear to land smooth dogfish. This would have a negative economic impact on fishermen who previously used gillnet gear in Federal waters to land smooth dogfish. However, as fishermen do not currently have to have a Federal permit to land smooth dogfish, NMFS is uncertain the universe of fishermen who might be affected by alternatives B2 and F2 at this time. However, given the potential large negative economic impacts of this alternative to the SCS, LCS, and smooth dogfish fisheries, NMFS did not select this alternative at this time.

Under alternative B3, NMFS would close the commercial gillnet fishery from South Carolina south, including the Gulf of Mexico and the Caribbean Sea. This would have a negative economic impact on Federally permitted directed and incidental fishermen. In the SCS fishery, this alternative would affect an average of 27 directed and 5 incidental shark permit holders out of the average 116 total shark permit holders that landed SCS from 2004–2007. The SCS gillnet fishery from South Carolina south accounts for 44 percent of the total directed shark permit holder landings, and 26 percent of landings in the incidental fishery. On average, directed shark permit holders landed 283,462 lb dw ($358,261) of SCS with the gillnet gear from South Carolina south. Thus, directed shark fishermen would lose $358,261 in average annual gross revenues from SCS landings from the gillnet prohibition under alternative B3. Based on average ex-vessel prices from 2004–2007, directed shark permit holders made $807,792 in average annual gross revenues from SCS landings. On average, incidental shark permit holders landed 5,381 lb dw ($6,807) of SCS with gillnet gear from South Carolina south. Thus, incidental shark permit holders would lose $6,807 in average annual gross revenues from non-blacknose SCS landings under alternative B3. The directed and incidental shark permit holders would lose average annual gross revenues of $365,068 from their current gross revenues of $833,634.

This alternative would have minor economic impacts on the LCS fishery. It would only affect 12 directed and incidental shark permit holders. The directed shark permit holders would lose $106,189 in average annual gross revenues from lost LCS landings in gillnet gear from South Carolina south under alternative B3. Incidental shark permit holders would lose $290 from lost LCS landings in gillnet gear from South Carolina south. In total ($106,479), this is only 3 percent of the average annual gross revenues (*i.e.,* $3,328,663) from LCS landings compared to the LCS fishery under the status quo.

Alternative B3, in combination with the final action F2, would not affect the economic impacts of the smooth dogfish fishery. Smooth dogfish are primarily caught from North Carolina north. The average total landings/year is 950,859 lb dw/year (by State and Federally permitted fishermen reporting to the ACCSP, however, since fishermen do not have to currently report smooth dogfish landings, this could be an underestimate of total landings, and thus, an underestimate of average annual gross revenues for this fishery), which translates into average annual gross revenues of $371,786 lb dw/year from smooth dogfish landings. Given that smooth dogfish are not typically landed with gillnet gear from South Carolina south, NMFS anticipates that this alternative, in combination with the preferred alternative F2, would not cause significant loss in average annual gross revenues from smooth dogfish landings.

The No Action alternative, C1, would not modify or alter commercial fishing practices for shortfin mako sharks or

other shark species. There would be no additional economic impacts to directed and incidental fishermen as the average annual gross revenues from shortfin mako sharks or other shark species would be the same as the status quo. On average, 72.5 mt dw of shortfin mako sharks were commercially landed between 2004 and 2007, which is equivalent to $350,039 in annual revenues. On average between 2004 and 2007, approximately 90 vessels had shortfin mako shark landings. Directed shark permit holders made up 39 of these vessels. However, since shortfin mako is typically incidentally caught, the average landings value per vessel was estimated by dividing annual revenues amongst all the vessels that have landed shortfin mako. Therefore, the vessels that landed shortfin mako generated an average of $3,889 in gross revenues per year from shortfin mako sharks. The No Action alternative would not allow NMFS to meet statutory requirements to take measures to end overfishing. Thus, No Action was not identified as a preferred alternative.

Alternative C2 would implement a species-specific quota for shortfin mako at the level of the average annual commercial landings for this species. This alternative is expected to have neutral or slightly negative economic impacts. On average, 72.5 mt dw (159,834 lb dw) of shortfin mako sharks were commercially landed between 2004 and 2007, which is equivalent to $350,039 in average annual gross revenues. Spread amongst the vessels that landed shortfin mako sharks, the average vessel earned $3,889 in annual gross revenues from shortfin mako sharks. While fishermen would be able to maintain current fishing effort under this alternative, any increase in effort would be restricted by the species-specific quota of 72.5 mt dw. Under the No Action alternative, commercial fishermen currently have a 488 mt dw quota, which could potentially be filled entirely by shortfin mako landings. This could result in maximum annual revenues equal to $2,356,106. Thus, there is the potential loss of the option to fish up to the maximum level under this alternative. This difference is $2,006,067 in annual gross revenues from shortfin mako sharks. Spread amongst the 90 vessels that, on average, have landed shortfin mako sharks from 2004 to 2007, that difference would be $22,289 annually per vessel. However, given shortfin mako sharks are incidentally caught in the PLL fishery, it is unlikely that the entire pelagic shark quota would be entirely filled with shortfin mako landings. NMFS did not select this alternative at this time because the United States contributes a small portion of shortfin mako mortality due the lack of a directed fishery compared to shortfin mako mortality resulting from the fishing of foreign vessels outside of the U.S. EEZ. In addition, this alternative does not minimize the potential economic impacts on small entities.

Alternative C3 would remove shortfin mako sharks from the pelagic shark species complex and add them to the prohibited species list. This alternative is not expected to have negative economic impacts for commercial fishermen because it is not a species that is targeted by commercial fishermen. Shortfin mako sharks are predominately caught incidentally in the PLL fishery and, on average, the commercial landings for shortfin mako sharks, from 2004 to 2007 were 72.5 mt dw with an estimated gross ex-vessel value of $350,039. However, since shortfin makos would be placed on the prohibited species list under alternative C3, there could be an estimated reduction in average annual gross revenues of $350,039 to the commercial fishermen. Based on the average number of vessels that have landed shortfin mako from 2004 to 2007, the revenue reductions would be approximately $3,889 per vessel annually. In addition, this alternative could lead to increased operation time if commercial fishermen have to release and discard all shortfin makos that are caught on the PLL gear. In addition, if the commercial PLL fleet expands in the future, placing shortfin mako sharks on the prohibited species list could result in a loss of future revenues for the commercial PLL fishery. Thus, NMFS did not select this alternative at this time.

Alternative C4a would establish a minimum size limit for shortfin makos that is based on the size at which 50 percent of female shortfin mako sharks reach sexual maturity or 32 inches IDL. The summed dressed weight of all shortfin mako sharks kept under the 32 inches IDL size limit made up 1.4 percent of total dressed weight landings of shortfin mako sharks based on POP data. NMFS estimated this would reduce shortfin mako harvests by 2,061.1 lb dw. The economic impacts of this restriction would be an average annual gross revenue loss of $4,513 for this fishery. Spread amongst the 90 vessels that have landed shortfin mako sharks from 2004 to 2007, the per vessel losses would be approximately $50 annually.

Alternative C4b would establish a minimum size limit for shortfin makos that is based on the size at which 50 percent of male shortfin mako sharks reach sexual maturity or 22 inches IDL. The summed dressed weight of all kept shortfin mako sharks under the 22 inches IDL size limit made up 0.02 percent of dressed weight landings of shortfin mako based on POP data. NMFS estimated this would reduce shortfin mako harvests by 34.3 lb dw. The economic impacts of this restriction would be an average annual gross revenues loss of $75 for this fishery.

Alternatives C4a and C4b would have minimal economic impacts because only a small percentage of commercial landings would be affected by the size restrictions. Of the two alternatives, the negative economic impact of C4a would be greater, as commercial landings by weight are 2,026.8 lb dw greater than in alternative C4b. Despite these minimum economic impacts, since the size limits would not reduce fishing mortality of shortfin mako sharks in the commercial sector, NMFS did not select these alternatives at this time.

Under alternative C5, the final action, NMFS would take action at the international level through international fishery management organizations to establish management measures to end overfishing of shortfin mako sharks. In the short term, this alternative would not result in any negative economic impacts on commercial fishermen as it would not restrict commercial harvest of shortfin mako sharks, nor alter the pelagic shark quota. Therefore, the near term economic impacts of alternative C5 would be the same as described in the No Action alternative C1. However, this alternative could have negative economic impacts in the long term if directed management measures were adopted at an appropriate international forum that would require the reduction of landings domestically for shortfin mako sharks. Recommended reductions in landings, if implemented by multiple nations, would ultimately end overfishing of shortfin mako. Therefore, NMFS selects alternative C5 at this time. Note that with respect to all shortfin mako commercial measures, alternatives C5 and C6 would have the lowest short-term economic impacts on fishermen and participants in the fishery.

Alternative C6, the preferred alternative, would promote the release of shortfin mako sharks brought to fishing vessels alive. This alternative would likely not result in any negative economic impacts on commercial fishermen as it does not restrict commercial harvest of shortfin mako sharks that are alive at haulback, and quotas and retention limits would remain as described in the No Action alternative C1. However, as this

alternative could result in the reduction of fishing mortality of shortfin mako sharks by encouraging fishermen to release shortfin mako sharks brought to the fishing vessel alive, NMFS selects this alternative at this time.

Under alternative D1, the final action, NMFS would maintain the current recreational management measures, including the current retention limits and size limits for SCS. Therefore, the economic impacts of alternative D1 would be the same as the status quo, and no negative economic impacts would be anticipated under alternative D1. Alternative D1 is the least costs alternative and NMFS selects this alternative.

Alternative D2 would modify the minimum recreational size for blacknose sharks based on the biology of blacknose sharks. This would lower the current size limit from 54 inches FL to 36 inches FL, the size at which 50 percent of the female blacknose sharks reach sexual maturity. This could increase the landings of recreationally harvested blacknose sharks and, therefore, have positive economic impacts for small business entities supporting recreational fishermen. The potential for increased landings associated with the lower size limit could marginally increase demand for charter/headboat services and for products and service provided by shoreside businesses that support recreational fishermen. Since this alternative could result in the increase of blacknose shark recreational landings, and NMFS needs to reduce the number of blacknose shark landings in order to rebuild the stock, NMFS did not select this alternative at this time.

Alternative D3 would increase the retention limit for Atlantic sharpnose sharks based on their current catches and stock status. Any increase in the retention limit for Atlantic sharpnose sharks would provide positive economic impacts for recreational fishermen, especially if this resulted in more charter trips for charter/headboats. However, since the latest stock assessment suggests that increased fishing efforts could result in an overfished status and/or cause overfishing to occur in the future (NMFS, 2007), NMFS did not select this alternative at this time.

Under alternative D4, NMFS would prohibit the retention of blacknose sharks in the recreational fishery. While recreational fishermen could still catch blacknose sharks, they would not be permitted to retain blacknose sharks and would have to release them. This could have negative economic impacts on recreational fishermen, including tournaments and charter/headboats if the prohibition of blacknose sharks resulted in fewer charters and reduced tournament participation. However, since blacknose sharks are not one of the primary species targeted by recreational anglers, in tournaments, or on charters, NMFS does not anticipate large negative economic impacts from this alternative on tournaments or charter/headboat businesses.

Maintaining the current recreational measures for shortfin mako sharks under alternative E1 would likely not result in any adverse economic impacts on small entities since the No Action alternative would not modify or alter recreational fishing practices for shortfin mako sharks or other shark species. However, this alternative would not meet the objective of this rule in reducing overfishing of shortfin mako sharks, Thus, NMFS did not select this alternative at this time.

Alternative E2a would set a minimum size limit for shortfin mako sharks of 108 inches FL in the recreational fishery. This would have the most severe economic impacts of all the alternatives considered, as almost all of the reported shortfin mako sharks landed (99.5 percent) were smaller than the proposed 108 inch FL size limit and would have to be released. This alternative would basically create a catch-and-release fishery for shortfin mako sharks. The impacts of alternative E2b would be less severe than alternative E2a, as it would set a minimum size limit for shortfin mako sharks of 73 inches FL in the recreational fishery. This would result in a 60.3 percent overall reduction in recreational shortfin mako shark landings. Under this alternative, economic impacts would be greater on the non-tournament recreational mako shark fishery, as 81 percent of those landings would fall below the 73 inch FL size limit. The percentage of recreational landings during tournaments that would be released under alternative E2b would be less than the non-tournament recreational landings (51.7 percent to 81 percent, respectively). According to LPS data, 41 percent of shortfin mako sharks caught are kept; therefore, size limits in alternatives E2 may have a substantial economic impact on the recreational fishery. Thus, NMFS did not select alternatives E2a or E2b at this time.

Under alternative E3, the final action, NMFS would take action at the international level to end overfishing of shortfin mako sharks through participation in international fisheries organizations such as ICCAT. This alternative would not result in any changes in the current recreational regulations regarding bag or size limits for shortfin mako sharks. Therefore, this alternative would likely not result in any negative economic impacts for recreational fishermen and the small businesses that support those recreational fishing activities in the short term as compared to the No Action alternative, E1. In addition, this alternative could help end overfishing of shortfin mako sharks in the long term through an international plan to conserve shortfin mako sharks. Therefore, NMFS selects this alternative at this time.

Under alternative E4, the final action, NMFS would promote the live release of shortfin mako sharks in the recreational shark fishery, but this alternative would not result in any changes in the current recreational regulations regarding bag or size limits for shortfin mako sharks. Therefore, this alternative would likely not result in any economic impacts compared to the No Action alternative, alternative E1. However, it would encourage the live release of shortfin mako sharks, and could help reduce fishing pressure on this species. Therefore, NMFS selects this alternative at this time.

Under alternative E5, NMFS would remove shortfin mako sharks from the authorized species list and add them to the prohibited species list. Placing shortfin mako sharks on the prohibited species list would make the recreational fishery for shortfin mako sharks a catch-and-release fishery. Although a small number of shortfin mako sharks were landed in the recreational fishery from 2004 to 2007, it is also an important fishing tournament species. Fishing tournaments are an important component of HMS recreational fisheries. In 2008, there were 42 shark tournaments throughout the U.S. Atlantic Coast, including the Gulf of Mexico and the Caribbean Sea. Therefore, adding this species to the prohibited species list could lead to negative economic impacts for tournament operators since they may have to modify their tournament rules and could face reduced demand for participation, and thus reduce revenues from entry fees. A recreational catch-and-release fishery for shortfin mako may also reduce demand for CHB trips that target shortfin mako sharks. In addition, since the United States only contributes to a small portion of the overall mortality for shortfin mako sharks, prohibiting them in the recreational fishery would not end overfishing for this species. Given these reasons and the fact that the economic impacts of this alternative are estimated

to be higher than that of the preferred alternatives, NMFS did not select this alternative at this time.

NMFS also considered alternatives regarding the potential inclusion of smooth dogfish under NMFS management. Smooth dogfish are currently not managed by NMFS, and stock data are sparse. Therefore, there is limited stock status information, participant information, and effort data for this fishery.

Under alternative F1, the no action alternative, NMFS estimates that there would not be any economic impacts to small entities beyond the status quo. This alternative would have the lowest costs alternative to small entities. However, applying the No Action alternative would not meet the objectives of this rule since it would preclude gathering fishery participant information. Therefore, NMFS did not select this alternative at this time.

Implementing Federal management of smooth dogfish through alternative F2, the final action, would focus on characterizing the fishery and stock status, but would not actively change catch levels or rates. Alternative F2 would require Federal commercial and recreational fishing permits as well as require fishermen to land smooth dogfish with all of their fins naturally attached. These changes could result in short-term, direct significant adverse socioeconomic impacts on fishermen who are used to processing smooth dogfish at sea. Business entities that fish commercially for smooth dogfish would have to purchase an open access smooth dogfish commercial fishing permit, and dealers would have to report smooth dogfish landings. The costs to small entities would include the costs of obtaining the permit (approximately $20 based on current permit fees), the time involved in completing the permit form, and the administrative costs associated with reporting landings. In addition, recreational anglers that would want to retain smooth dogfish in Federal waters would need to purchase an HMS Angling category permit. While this alternative results in more costs to small entities than alternative F1, it helps meet the objectives of this rule of gathering more information on participation in this fishery, and therefore is preferred at this time. NMFS would delay the implementation of these requirements until the start of the 2012 fishing season to allow time for fishermen to adjust to the changes and to allow time for the development of a new commercial smooth dogfish permit. Thus, in the short-term, alternative F2 would result in significant, but mitigated to be less than significant socioeconomic impacts due to the delay in implementation of these requirements. Once fishermen adjust to the new measures, NMFS anticipates that there would be no direct socioeconomic impacts to fishermen in the long-term.

Sub-alternatives F2 a1, which would establish a smooth dogfish quota that is equal to the average annual landings from 1998–2007, and F2 a2, which would establish a smooth dogfish quota equal to the maximum annual landing between 1998–2007, could potentially have negative economic impacts on fishermen if the associated quotas reflect a significantly underreported fishery. If the actual landings are higher than these two quotas, fishermen would be prevented from fishing at status quo levels, and thus experience negative economic impacts. Thus, NMFS did not select these two sub-alternatives at this time.

Alternative F2a3, which would establish a smooth dogfish quota above the maximum annual landings between 1998–2007, would have neutral to negative economic impacts. The quota of maximum historical annual landings plus one standard deviation between the years 1998 and 2007 could allow a buffer for potential unreported landings during that time. However, based on public comment, as detailed above, NMFS does not believe that this alternative would adequately account for underreporting.

Alternative F2a4, the final action, would establish a smooth dogfish quota above the maximum annual landings between 1998–2007 and would have neutral economic impacts. The quota of maximum historical annual landings plus two standard deviations between the years 1998 and 2007 would allow a buffer for potential unreported landings during that time. This would allow the fishery to continue at the current rate and level into the future without having to be shut down prematurely. Thus, alternative F2a4 is NMFS' selected alternative.

There are no negative economic impacts anticipated with alternative F2 b1. There is no charge associated with fishermen and researchers obtaining an EFP, SRP, display permit, or LOA for research or the collection for public display. In addition, NMFS would establish a smooth dogfish set aside that would accommodate current and future research activities. Thus, NMFS does not anticipate any negative economic impacts associated with alternative F2 b1, and NMFS selects sub-alternative F2 b1 at this time.

As with sub-alternative F2 b1, there are no negative economic impacts anticipated with sub-alternative F2 b2. There is no charge associated with fishermen and researchers obtaining an EFP, SRP, display permit, or LOA for research or for the collection for public display. In addition, NMFS would establish a smooth dogfish set-aside that would accommodate current and future research activities. Thus, NMFS does not anticipate any negative economic impacts associated with sub-alternative F2 b1.

Alternative F3, which would implement management measures for smooth dogfish that complement the ASMFC plan, would likely have neutral to slightly positive economic impacts. Most of the ASMFC regulations would not change the smooth dogfish fishery as it currently operates, fishermen would be required to leave the dorsal fin on the smooth dogfish through landing from July through February, which could change how the fishery operates, and therefore, have direct minor, adverse socioeconomic impacts in the short-term. The extent of these impacts will depend on how many smooth dogfish are landed between July and February of each year. Because this requirement began in State waters in January 2010, it could mitigate some of the economic impacts associated with alternative F2 with regard to the requirement of having all fins naturally attached under the Federal plan. Thus, by the start of the fishing season in 2012, fishermen who have been fishing in State waters should have a better idea of how to keep all fins naturally attached.

In the short-term, there are no indirect socioeconomic impacts expected for dealers and fish processors compared to the status quo as the fishery would continue to operate as it has been with the exception of the requirement to leave the dorsal fin on from July through February. However, if the requirement to have the dorsal fin attached during certain times of the year affects how dealers and processors process smooth dogfish, then there could be indirect, minor adverse economic impacts on smooth dogfish dealers until they learn how to process these sharks during July through February. However, since NMFS considers the requirements for gillnet checks and maintaining shark fins naturally attached through offloading necessary conservation tools for protected resources and to prevent shark finning, NMFS did not select this alternative at this time.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group

of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. Copies of this final rule and the compliance guide are available upon request from NMFS (*see* **ADDRESSES**). Copies of the compliance guide will be sent to all Federal shark limited access permit holders.

List of Subjects

50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: May 18, 2010.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR parts 600 and 635 are amended as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

■ 1. The authority citation for 50 CFR part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

■ 2. In § 600.1204, paragraphs (g) through (l) are revised to read as follows:

§ 600.1204 Shark finning; possession at sea and landing of shark fins.

* * * * *

(g) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark permit and who lands shark in an Atlantic coastal port must have all fins weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing. Such weights must be recorded on the "weighout slips" specified in § 635.5(a)(2) of this chapter.

(h) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark permit and who lands shark in or from the U.S. EEZ in an Atlantic coastal port must comply with regulations found at § 635.30(c) of this chapter.

(i) No person aboard a vessel that has been issued a Federal Atlantic commercial shark permit shall engage in shark finning.

(j) No person aboard a vessel that has been issued a Federal Atlantic commercial shark permit shall possess on board shark fins without the fins being naturally attached to the corresponding carcass(es), although sharks may be dressed at sea.

(k) No person aboard a vessel that has been issued a Federal Atlantic commercial shark permit shall land shark fins without the fins being naturally attached to the corresponding carcass(es).

(l) A dealer may not purchase shark fins, from an owner or operator of a fishing vessel issued a Federal Atlantic commercial shark permit who lands shark in an Atlantic coastal port, unless such fins were naturally attached to the corresponding carcass at the time of landing and their combined wet weight is less than 5 percent of the dressed weight of the corresponding carcass(es).

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 3. The authority citation for 50 CFR part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

■ 4. In § 635.1, paragraph (a) is revised to read as follows:

§ 635.1 Purpose and scope.

(a) The regulations in this part govern the conservation and management of Atlantic tunas, Atlantic billfish, Atlantic sharks, and Atlantic swordfish under the authority of the Magnuson-Stevens Act and ATCA. They implement the 2006 Consolidated Highly Migratory Species Fishery Management Plan and its amendments. The Atlantic tunas regulations govern conservation and management of Atlantic tunas in the management unit. The Atlantic billfish regulations govern conservation and management of Atlantic billfish in the management unit. The Atlantic swordfish regulations govern conservation and management of North and South Atlantic swordfish in the management unit. North Atlantic swordfish are managed under the authority of both ATCA and the Magnuson-Stevens Act. South Atlantic swordfish are managed under the sole authority of ATCA. The shark regulations govern conservation and management of sharks in the management unit, under the authority of the Magnuson-Stevens Act.

* * * * *

■ 5. In § 635.2, the definitions of "Federal Atlantic commercial shark permit," "Non-blacknose SCS," and "Smoothhound sharks" are added in alphabetical order to read as follows:

§ 635.2 Definitions.

* * * * *

Federal Atlantic Commercial Shark Permit means any of the commercial shark permits issued pursuant to § 635.4.

* * * * *

Non-blacknose SCS means one of the species, or part thereof, listed in section B of Table 1 in Appendix A to this part other than the blacknose shark (*Carcharhinus acronotus*).

* * * * *

Smoothhound shark means one of the species, or part thereof, listed in section E of Table 1 in Appendix A to this part.

* * * * *

■ 6. In § 635.4, paragraphs (e) and (g)(2) are revised to read as follows:

§ 635.4 Permits and fees.

* * * * *

(e) *Shark vessel permits.* (1) The owner of each vessel used to fish for or take Atlantic sharks or on which Atlantic sharks are retained, possessed with an intention to sell, or sold must obtain, in addition to any other required permits, at least one of the Federal Atlantic commercial shark permits described below. A Federal Atlantic commercial shark permit is not required if the vessel is recreationally fishing and retains no more sharks than the recreational retention limit specified in § 635.22(c), is operating pursuant to the conditions of a shark display or EFP issued pursuant to § 635.32, or fishes exclusively within State waters. It is a rebuttable presumption that the owner or operator of a vessel without a permit issued pursuant to this part on which sharks are possessed in excess of the recreational retention limits intends to sell the sharks.

(2) The owner of vessels that fish for, take, retain, or possess the Atlantic oceanic sharks listed in sections A, B, or C of Table 1 of Appendix A with an intention to sell must obtain either a Federal Atlantic commercial shark directed or shark incidental limited access permit. The only valid Federal commercial shark directed and shark incidental limited access permits are those that have been issued under the limited access program consistent with the provisions under paragraphs (l) and (m) of this section.

(3) A vessel owner issued or required to be issued a Federal Atlantic commercial shark directed or shark incidental limited access permit may harvest, consistent with the other regulations in this part, any shark species listed in sections A, B, or C of Table 1 of Appendix A.

(4) Vessel owners of vessels that fish for, take, retain, or possess the Atlantic oceanic sharks listed in section E of Table 1 of Appendix A with an intention to sell must obtain a Federal commercial smoothhound permit. A smoothhound permit may be issued to a vessel that also holds either a directed or incidental shark limited access permit.

* * * * *

(g) * * *

(2) *Shark.* A first receiver, as defined in § 635.2, of any Atlantic shark listed in Table 1 of Appendix A of this part must possess a valid dealer permit.

* * * * *

■ 7. In § 635.5:

■ a. Paragraph (a)(4) is removed.

■ b. Paragraph (a)(5) is redesignated as paragraph (a)(4).

■ c. Paragraph (b)(1)(i) is revised.

The revision reads as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(b) * * *

(1) * * *

(i) Dealers that have been issued or should have been issued an Atlantic tunas, swordfish, and/or sharks dealer permit under § 635.4 must submit to NMFS all reports required under this section. All reports must be species-specific and must include information about all HMS landed regardless of where harvested or whether the vessel is Federally permitted under § 635.4. For sharks, each report must specify both the total fin weight and the total dressed weight of the carcass(es) separately from each other. In cases where different dealers handle the fins and the shark meat, either the report required in this section or the weighout slip required in paragraph (a)(2) of this section must indicate which part of the sharks being landed (*e.g.,* fins or meat) was handled by the dealer submitting the report. As stated in § 635.4(a)(6), failure to comply with these recordkeeping and reporting requirements may result in the existing dealer permit being revoked, suspended, or modified, and in the denial of any permit applications.

* * * * *

■ 8. In § 635.20, paragraph (e) is revised to read as follows:

§ 635.20 Size limits.

* * * * *

(e) *Sharks.* The following size limits change depending on the species being caught and the retention limit under which they are being caught as specified under § 635.22(c).

(1) All sharks landed under the recreational retention limits specified at § 635.22(c) must have the head, tail, and fins naturally attached.

(2) All sharks landed under the recreational retention limits specified at § 635.22(c)(2) must be at least 54 inches (137 cm) FL.

(3) There is no size limit for Atlantic sharpnose or bonnethead sharks taken under the recreational retention limits specified at § 635.22(c)(3).

(4) There is no size limit for smoothhound sharks taken under the recreational retention limits specified at § 635.22(c)(6).

* * * * *

■ 9. In § 635.21, paragraphs (d)(1)(iii)(B) and (e)(3) are revised to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(d) * * *

(1) * * *

(iii) * * *

(B) *Northern South Carolina.* Bounded on the north by 32°53.5′ N. lat.; on the south by 32°48.5′ N. lat.; on the east by 78°04.75′ W. long.; and on the west by 78°16.75′ W. long.

* * * * *

(e) * * *

(3) *Sharks.* (i) No person may possess a shark in the EEZ taken from its management unit without a permit issued under § 635.4. No person issued a Federal Atlantic commercial shark permit under § 635.4 may possess a shark taken by any gear other than rod and reel, handline, bandit gear, longline, or gillnet. No person issued an HMS Angling permit or an HMS Charter/headboat permit under § 635.4 may possess a shark if the shark was taken from its management unit by any gear other than rod and reel or handline, except that persons on a vessel issued both an HMS Charter/Headboat permit and a Federal Atlantic commercial shark permit may possess sharks taken with rod and reel, handline, bandit gear, longline, or gillnet if the vessel is not engaged in a for-hire fishing trip.

(ii) No person may fish for sharks with a gillnet with a total length of 2.5 km or more. No person may have on board a vessel a gillnet with a total length of 2.5 km or more.

(iii) Persons fishing with gillnet gear must comply with the provisions implementing the Atlantic Large Whale Take Reduction Plan, the Bottlenose Dolphin Take Reduction Plan, the Harbor Porpoise Take Reduction Plan, and any other relevant Take Reduction Plan set forth in §§ 229.32 through 229.35 of this title. If a listed whale is taken, the vessel operator must cease fishing operations immediately and contact NOAA Fisheries as required under § 229 of this title.

(iv) While fishing with a gillnet for or in possession of any of the large coastal, small coastal, and pelagic sharks listed in section A, B, and/or C of Table 1 of Appendix A of this part, the gillnet must remain attached to at least one vessel at one end, except during net checks.

(v) Vessel operators fishing with gillnet for or in possession of any of the large coastal, small coastal, and pelagic sharks listed in sections A, B, and/or C of Table 1 of Appendix A of this part are required to conduct net checks every 0.5 to 2 hours to look for and remove any sea turtles, marine mammals, or smalltooth sawfish. Smalltooth sawfish should not be removed from the water while being removed from the net.

* * * * *

■ 10. In § 635.22, paragraphs (a) and (c) are revised to read as follows:

§ 635.22 Recreational retention limits.

(a) *General.* Atlantic HMS caught, possessed, retained, or landed under these recreational limits may not be sold or transferred to any person for a commercial purpose. Recreational retention limits apply to a longbill spearfish taken or possessed shoreward of the outer boundary of the Atlantic EEZ, to a shark taken from or possessed in the Atlantic Ocean including the Gulf of Mexico and Caribbean Sea, to a North Atlantic swordfish taken from or possessed in the Atlantic Ocean, and to bluefin and yellowfin tuna taken from or possessed in the Atlantic Ocean. The operator of a vessel for which a retention limit applies is responsible for the vessel retention limit and for the cumulative retention limit based on the number of persons aboard. Federal recreational retention limits may not be combined with any recreational retention limit applicable in State waters.

* * * * *

(c) *Sharks.* (1) The recreational retention limit for sharks applies to any person who fishes in any manner, except to persons aboard a vessel that has been issued a Federal Atlantic commercial shark vessel permit under § 635.4. The retention limit can change depending on the species being caught

and the size limit under which they are being caught as specified under § 635.20(e). If a commercial Atlantic shark quota is closed under § 635.28, the recreational retention limit for sharks and no sale provision in paragraph (a) of this section may be applied to persons aboard a vessel issued a Federal Atlantic commercial shark vessel permit under § 635.4, only if that vessel has also been issued an HMS Charter/Headboat permit issued under § 635.4 and is engaged in a for-hire fishing trip.

(2) Only one shark from the following list may be retained per vessel per trip, subject to the size limits described in § 635.20(e)(2): any of the non-ridgeback sharks listed under heading A.2 of Table 1 in Appendix A of this part, tiger (*Galeocerdo cuvier*), blue (*Prionace glauca*), common thresher (*Alopias vulpinus*), oceanic whitetip (*Carcharhinus longimanus*), porbeagle (*Lamna nasus*), shortfin mako (*Isurus oxyricnchus*), Atlantic sharpnose (*Rhizoprionodon terraenovae*), finetooth (*C. isodon*), blacknose (*C. Acronotus*), and bonnethead (*Sphyrna tiburo*).

(3) In addition to the sharks listed under paragraph (c)(2) of this section, one Atlantic sharpnose shark and one bonnethead shark may be retained per person per trip, subject to the size limits described in § 635.20(e)(3).

(4) No prohibited sharks, including parts or pieces of prohibited sharks, which are listed in section D of Table 1 of Appendix A to this part, may be retained regardless of where harvested.

(5) Sharks listed in Table 1 of Appendix A that are not listed in this section, must be released by persons aboard a vessel that has not been issued a Federal Atlantic commercial shark vessel permit under § 635.4.

(6) The smoothhound sharks listed in Section E of Table 1 of Appendix A to this part may be retained, and are subject only to the size limits described in § 635.20(e)(4).

* * * * *

■ 11. In § 635.24, paragraphs (a)(4), (a)(5), and (a)(6) are revised and paragraph (a)(7) is added to read as follows:

§ 635.24 Commercial retention limits for sharks and swordfish.

* * * * *

(a) * * *

(4)(i) A person who owns or operates a vessel that has been issued a directed shark LAP may retain, possess, or land pelagic sharks if the pelagic shark fishery is open per §§ 635.27 and 635.28.

(ii) A person who owns or operates a vessel that has been issued a directed shark LAP may retain, possess, or land blacknose and non-blacknose SCS if the blacknose and non-blacknose SCS fisheries are open per §§ 635.27 and 635.28.

(iii) A person who owns or operates a vessel that has been issued an incidental shark LAP may retain, possess, or land no more than 16 SCS and pelagic sharks, combined, per trip, if the respective fishery is open per §§ 635.27 and 635.28.

(5) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark permit may not retain, possess, land, sell, or purchase prohibited sharks, including any parts or pieces of prohibited sharks, which are listed in section D of Table 1 of Appendix A to this part under prohibited sharks.

(6) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark permit, and who decides to retain sharks, must retain, subject to the trip limits, all dead, legal-sized, non-prohibited sharks that are brought onboard the vessel and cannot replace those sharks with sharks of higher quality or size that are caught later in the trip. Any fish that are to be released cannot be brought onboard the vessel and must be released in the water in a manner that maximizes survival.

(7) Only persons who own or operate a vessel that has been issued a Federal commercial smoothhound permit may retain, possess, and land smoothhound sharks if the smoothhound fishery is open per §§ 635.27 and 635.28.

* * * * *

■ 12a. In § 635.27, effective June 1, 2010, paragraphs (b)(1)(i) through (v) are revised to read as follows:

§ 635.27 Quotas.

* * * * *

(b) *Sharks.* (1) *Commercial Quotas.* The commercial quotas for sharks specified in this section apply to all sharks from the management unit harvested by persons fishing commercially, regardless of where harvested. Sharks taken and landed commercially from State waters, even by commercial fishermen without Federal Atlantic commercial shark permits, must be counted against the Federal fishery quota. Commercial quotas are specified for each of the complexes or species listed below. Any sharks landed as unclassified will be counted against the appropriate complex's or species' quota based on the species composition calculated from data collected by observers on non-research trips and/or dealer data. No prohibited sharks, including parts or pieces of prohibited sharks, which are listed under section D of Table 1 of Appendix A to this part, may be retained except as authorized under § 635.32.

(i) *Annual adjustments.* NMFS will publish in the **Federal Register** any annual adjustments to the base annual commercial quotas or the 2008 through 2012 adjusted base quotas. The base annual quota and the adjusted base annual quota will not be available, and the fishery will not open, until such adjustments are published and effective in the **Federal Register**.

(A) *Overharvests.* Except as noted in this paragraph, if the available commercial quota for any shark species or complex, as described in this section, is exceeded in any fishing year, NMFS will deduct an amount equivalent to the overharvest(s) from the following fishing year or, depending on the level of overharvest(s), NMFS may deduct an amount equivalent to the overharvest(s) spread over a number of subsequent fishing years to a maximum of five years. If the annual quota for non-sandbar LCS is exceeded in either region (*see* section (b)(1)(iii)(B)) or in the research fishery in any fishing year, NMFS will deduct an amount equivalent to the overharvest(s) from the following fishing year or, depending on the level of overharvest(s), NMFS may deduct an amount equivalent to the overharvest(s) spread over a number of subsequent fishing years to a maximum of five years, in the specific region or research fishery where the overharvest occurred. If the blue shark quota is exceeded, NMFS will reduce the annual commercial quota for pelagic sharks by the amount that the blue shark quota is exceeded prior to the start of the next fishing year or, depending on the level of overharvest(s), deduct an amount equivalent to the overharvest(s) spread over a number of subsequent fishing years to a maximum of five years.

(B) *Underharvests.* Except as noted in this paragraph, if an annual quota for any shark species or complex, as described in this section, is not exceeded, NMFS may adjust the annual quota depending on the status of the stock or quota group. If the annual quota for non-sandbar LCS is not exceeded in either region or in the research fishery, NMFS may adjust the annual quota in either region (*see* paragraph (b)(1)(iii)(B) of this section) or the research fishery depending on the status of the stock or quota group. If the stock (*e.g.,* sandbar shark, porbeagle shark, pelagic shark, or blue shark) or specific species within a quota group (*e.g.,* non-sandbar LCS or non-blacknose SCS) is declared to be overfished, to have overfishing occurring, or to have an unknown status, NMFS may not adjust the following fishing year's quota for any

underharvest, and the following fishing year's quota will be equal to the base annual quota (or the adjusted base quota for sandbar and non-sandbar LCS until December 31, 2012). If the stock is not declared to be overfished, to have overfishing occurring, or to have an unknown status, NMFS may increase the following year's base annual quota (or the adjusted base quota for sandbar and non-sandbar LCS until December 31, 2012) by an equivalent amount of the underharvest up to 50 percent above the base annual quota. For the non-sandbar LCS fishery, underharvests are not transferable between regions and/or the research fishery.

(ii) *Sandbar sharks.* The base annual commercial quota for sandbar sharks is 116.6 mt dw. However, from July 24, 2008 through December 31, 2012, to account for overharvests that occurred in 2007, the adjusted base quota is 87.9 mt dw. Both the base quota and the adjusted base quota may be further adjusted per paragraph (b)(1)(i) of this section. This quota is available only to the owners of commercial shark vessels that have been issued a valid shark research permit and that have a NMFS-approved observer onboard.

(iii) *Non-sandbar LCS.* (A) The total base quota for non-sandbar LCS is 677.8 mt dw. This base quota is split between the two regions and the shark research fishery as follows: Gulf of Mexico = 439.5 mt dw; Atlantic = 188.3 mt dw; and Shark Research Fishery = 50 mt dw. However, from July 24, 2008 through December 31, 2012, to account for overharvests that occurred in 2007, the total adjusted base quota is 615.8 mt dw. This adjusted base quota is split between the regions and the shark research fishery as follows: Gulf of Mexico = 390.5 mt dw; Atlantic = 187.8 mt dw; and Shark Research Fishery = 37.5 mt dw. Both the base quota and the adjusted base quota may be further adjusted per paragraph (b)(1)(i) of this section.

(B) The commercial quotas for non-sandbar LCS are split between two regions: the Gulf of Mexico and the Atlantic. For the purposes of this section, the boundary between the Gulf of Mexico region and the Atlantic region is defined as a line beginning on the east coast of Florida at the mainland at 25°20.4′ N. lat, proceeding due east. Any water and land to the south and west of that boundary is considered, for the purposes of quota monitoring and setting of quotas, to be within the Gulf of Mexico region. Any water and land to the north and east of that boundary, for the purposes of quota monitoring and setting of quotas, is considered to be within the Atlantic region.

(C) Except for non-sandbar LCS landed by vessels issued a valid shark research permit with a NMFS-approved observer onboard, any non-sandbar LCS reported by dealers located in the Florida Keys areas or in the Gulf of Mexico will be counted against the non-sandbar LCS Gulf of Mexico regional quota. Except for non-sandbar LCS landed by vessels issued a valid shark research permit with a NMFS-approved observer onboard, any non-sandbar LCS reported by dealers located in the Atlantic region will be counted against the non-sandbar LCS Atlantic regional quota. Non-sandbar LCS landed by a vessel issued a valid shark research permit with a NMFS-approved observer onboard will be counted against the non-sandbar LCS research fishery quota using scientific observer reports.

(iv) *Small coastal sharks.* The base annual commercial quota for non-blacknose small coastal sharks is 221.6 mt dw, unless adjusted pursuant to paragraph (b)(1)(i) of this section. The base annual commercial quota for blacknose sharks is 19.9 mt dw, unless adjusted pursuant to paragraph (b)(1)(i) of this section.

(v) *Pelagic sharks.* The base annual commercial quotas for pelagic sharks are 273 mt dw for blue sharks, 1.7 mt dw for porbeagle sharks, and 488 mt dw for pelagic sharks other than blue sharks or porbeagle sharks, unless adjusted pursuant to paragraph (b)(1)(i) of this section.

■ 12b. In § 635.27, paragraphs (b(1)(vi) and (b)(2) are revised to read as follows:

§ 635.27 Quotas.

* * * * *

(b) * * *

(1) * * *

(vi) *Smoothhound sharks.* The base annual commercial quota for smoothhound sharks is 715.5 mt dw, unless adjusted pursuant to paragraph (b)(1)(i) of this section.

(2) *Public display and non-specific research quotas.* All sharks collected under the authority of a display permit or EFP, subject to restrictions at § 635.32, will be counted against the following:

(i) The base annual quota for persons who collect non-sandbar LCS, SCS, pelagic sharks, blue sharks, porbeagle sharks, or prohibited species under a display permit or EFP is 57.2 mt ww (41.2 mt dw).

(ii) The base annual quota for persons who collect sandbar sharks under a display permit is 1.4 mt ww (1 mt dw) and under an EFP is 1.4 mt ww (1 mt dw).

(iii) No persons may collect dusky sharks under a display permit. Collection of dusky sharks for research under EFPs and/or SRPs may be considered on a case by case basis and any associated mortality would be deducted from the shark research and display quota.

(iv) The base annual quota for persons who collect smoothhound sharks under a display permit or EFP is 6 mt ww (4.3 mt dw).

* * * * *

■ 13. In § 635.28, paragraph (b) is revised to read as follows:

§ 635.28 Closures.

* * * * *

(b) *Sharks.* (1) If quota is available as specified by a publication in the **Federal Register**, the commercial fishery for the shark species or complexes specified in § 635.27(b)(1) will remain open.

(2) When NMFS calculates that the landings for the shark species or complexes, as specified in § 635.27(b)(1), has reached or is projected to reach 80 percent of the available quota as specified in § 635.27(b)(1), NMFS will file for publication with the Office of the Federal Register a notice of closure for that shark species, shark complex, and/or region that will be effective no fewer than 5 days from date of filing. From the effective date and time of the closure until NMFS announces, via the publication of a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fishery for the shark species or shark complex and, for non-sandbar LCS, region is closed, even across fishing years.

(3) When NMFS calculates that the landings for either blacknose sharks or non-blacknose SCS has reached or is projected to reach 80 percent of the available quota as specified in § 635.27(b)(1), NMFS will file for publication with the Office of the Federal Register a notice of closure for the entire SCS fishery, both the blacknose and non-blacknose fisheries, that will be effective no fewer than 5 days from date of filing. From the effective date and time of the closure until NMFS announces, via the publication of a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fishery for non-blacknose SCS and blacknose sharks is closed, even across fishing years.

(4) When the fishery for a shark species group and/or region is closed, a fishing vessel, issued a Federal Atlantic commercial shark permit pursuant to § 635.4, may not possess or sell a shark of that species group and/or region,

except under the conditions specified in § 635.22(a) and (c) or if the vessel possesses a valid shark research permit under § 635.32 and a NMFS-approved observer is onboard. A shark dealer, issued a permit pursuant to § 635.4, may not purchase or receive a shark of that species group and/or region from a vessel issued a Federal Atlantic commercial shark permit, except that a permitted shark dealer or processor may possess sharks that were harvested, off-loaded, and sold, traded, or bartered, prior to the effective date of the closure and were held in storage. Under a closure for a shark species group, a shark dealer, issued a permit pursuant to § 635.4 may, in accordance with State regulations, purchase or receive a shark of that species group if the sharks were harvested, off-loaded, and sold, traded, or bartered from a vessel that fishes only in State waters and that has not been issued a Federal Atlantic commercial shark permit, HMS Angling permit, or HMS Charter/Headboat permit pursuant to § 635.4. Additionally, under a closure for a shark species group and/or regional closure, a shark dealer, issued a permit pursuant to § 635.4, may purchase or receive a shark of that species group if the sharks were harvested, off-loaded, and sold, traded, or bartered from a vessel issued a valid shark research permit (per § 635.32) that had a NMFS-approved observer on board during the trip sharks were collected.

* * * * *

■ 14. In § 635.30, paragraph (c) is revised to read as follows:

§ 635.30 Possession at sea and landing.

* * * * *

(c) *Shark.* (1) In addition to the regulations issued at part 600, subpart N, of this chapter, a person who owns or operates a vessel issued a Federal Atlantic commercial shark permit under § 635.4 must maintain all the shark fins including the tail naturally attached to the shark carcass until the shark has been offloaded from the vessel. While sharks are on board and when sharks are being offloaded, persons issued a Federal Atlantic commercial shark permit under § 635.4 are subject to the regulations at part 600, subpart N, of this chapter.

(2) A person who owns or operates a vessel that has a valid Federal Atlantic commercial shark permit may remove the head and viscera of the shark while on board the vessel. At any time when on the vessel, sharks must not have the backbone removed and must not be halved, quartered, filleted, or otherwise reduced. All fins, including the tail, must remain naturally attached to the shark through offloading. While on the vessel, fins may be sliced so that the fin can be folded along the carcass for storage purposes as long as the fin remains naturally attached to the carcass via at least a small portion of uncut skin. The fins and tail may only be removed from the carcass once the shark has been landed and offloaded.

(3) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark permit and who lands sharks in an Atlantic coastal port, including ports in the Gulf of Mexico and Caribbean Sea, must have all fins and carcasses weighed and recorded on the weighout slips specified in § 635.5(a)(2) and in accordance with part 600, subpart N, of this chapter. Persons may not possess any shark fins not naturally attached to a shark carcass on board a fishing vessel at any time. Once landed and offloaded, sharks that have been halved, quartered, filleted, cut up, or reduced in any manner may not be brought back on board a vessel that has been or should have been issued a Federal Atlantic commercial shark permit.

(4) Persons aboard a vessel that does not have a Federal Atlantic commercial shark permit must maintain a shark in or from the EEZ intact through landing with the head, tail, and all fins naturally attached. The shark may be bled and the viscera may be removed.

* * * * *

■ 15. In § 635.32, paragraph (e)(3) is revised to read as follows:

§ 635.32 Specifically authorized activities.

* * * * *

(e) * * *

(3) Charter permit holders must submit logbooks and comply with reporting requirements as specified in § 635.5. NMFS will provide specific conditions and requirements in the chartering permit, so as to ensure consistency, to the extent possible, with laws of foreign countries, the 2006 Consolidated HMS FMP and its amendments, as well as ICCAT recommendations.

* * * * *

■ 16. In § 635.69, paragraphs (a)(2) and (a)(3) are revised to read as follows:

§ 635.69 Vessel monitoring systems.

(a) * * *

(2) Whenever a vessel issued a directed shark LAP, is away from port with bottom longline gear on board, is located between 33°00′ N. lat. and 36°30′ N. lat., and the mid-Atlantic shark closed area is closed as specified in § 635.21(d)(1); or

(3) Whenever a vessel, issued a directed shark LAP, is away from port with a gillnet on board from November 15–April 15.

* * * * *

■ 17. In Appendix A to Part 635, Table 1 of Appendix A to Part 635 is revised to read as follows:

Appendix A [Amended]

TABLE 1 OF APPENDIX A TO PART 635—OCEANIC SHARKS

A. Large Coastal Sharks
1. Ridgeback sharks:
Sandbar, *Carcharhinus plumbeus*
Silky, *Carcharhinus falciformis*
Tiger, *Galeocerdo cuvier*
2. Non-ridgeback sharks:
Blacktip, *Carcharhinus limbatus*
Bull, *Carcharhinus leucas*
Great hammerhead, *Sphyrna mokarran*
Lemon, *Negaprion brevirostris*
Nurse, *Ginglymostoma cirratum*
Scalloped hammerhead, *Sphyrna lewini*
Smooth hammerhead, *Sphyrna zygaena*
Spinner, *Carcharhinus brevipinna*
B. Small Coastal Sharks
Atlantic sharpnose, *Rhizoprionodon terraenovae*
Blacknose, *Carcharhinus acronotus*
Bonnethead, *Sphyrna tiburo*
Finetooth, *Carcharhinus isodon*
C. Pelagic Sharks
Blue, *Prionace glauca*
Oceanic whitetip, *Carcharhinus longimanus*
Porbeagle, *Lamna nasus*
Shortfin mako, *Isurus oxyrinchus*
Thresher, *Alopias vulpinus*
D. Prohibited Sharks
Atlantic angel, *Squatina dumerili*
Basking, *Cetorhinus maximus*
Bigeye sand tiger, *Odontaspis noronhai*
Bigeye sixgill, *Hexanchus nakamurai*
Bigeye thresher, *Alopias superciliosus*
Bignose, *Carcharhinus altimus*
Caribbean reef, *Carcharhinus perezii*
Caribbean sharpnose, *Rhizoprionodon porosus*
Dusky, *Carcharhinus obscurus*
Galapagos, *Carcharhinus galapagensis*
Longfin mako, *Isurus paucus*
Narrowtooth, *Carcharhinus brachyurus*
Night, *Carcharhinus signatus*
Sand tiger, *Carcharias taurus*
Sevengill, *Heptranchias perlo*
Sixgill, *Hexanchus griseus*
Smalltail, *Carcharhinus porosus*
Whale, *Rhincodon typus*
White, *Carcharodon carcharias*
E. Smoothhound Sharks
Smooth dogfish, *Mustelus canis*
Florida smoothhound, *Mustelus norrisi*

* * * * *

[FR Doc. 2010–12407 Filed 5–28–10; 8:45 am]

BILLING CODE 3510–22–P

Federal Register

Tuesday,
June 1, 2010

Part III

Department of Homeland Security

Customs and Border Protection

Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers; Notice

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of intent to distribute offset for Fiscal Year 2010.

SUMMARY: Pursuant to the Continued Dumping and Subsidy Offset Act of 2000, this document is U.S. Customs and Border Protection's notice of intent to distribute assessed antidumping or countervailing duties (known as the continued dumping and subsidy offset) for Fiscal Year 2010 in connection with countervailing duty orders, antidumping duty orders, or findings under the Antidumping Act of 1921. This document sets forth the case name and number of each order or finding for which funds may become available for distribution, together with the list of affected domestic producers, based on the list supplied by the United States International Trade Commission (USITC) associated with each order or finding, who are potentially eligible to receive a distribution. This document also provides the instructions for affected domestic producers (and anyone alleging eligibility to receive a distribution) to file certifications to claim a distribution in relation to the listed orders or findings.

DATES: Certifications to obtain a continued dumping and subsidy offset under a particular order or finding must be received by August 2, 2010. Any certification received after August 2, 2010 will be denied, making claimants ineligible for the distribution.

ADDRESSES: Certifications and any other correspondence (whether by mail, or an express or courier service) should be addressed to the Assistant Commissioner, Office of Administration, U.S. Customs and Border Protection, Revenue Division, Attention: Melissa Kurth, 6650 Telecom Drive, Suite 100, Indianapolis, IN 46278.

FOR FURTHER INFORMATION CONTACT: For general questions regarding preparation of certifications, contact Melissa Kurth, Revenue Division, (317) 614–4462. For questions regarding legal aspects, contact Peter Martin, Office of International Trade, Regulations and Rulings, (202) 325–0048.

SUPPLEMENTARY INFORMATION:

Background

The Continued Dumping and Subsidy Offset Act of 2000 (CDSOA) was enacted on October 28, 2000, as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (the "Act"). The provisions of the CDSOA are contained in title X (§§ 1001–1003) of the Act.

The CDSOA, in § 1003 of the Act, amended title VII of the Tariff Act of 1930, as amended, by adding a new § 754 (codified at 19 U.S.C. 1675c) in order to provide that assessed duties received pursuant to a countervailing duty order, an antidumping duty order, or a finding under the Antidumping Act of 1921 will be distributed to affected domestic producers for certain qualifying expenditures that these producers incur after the issuance of such an order or finding. The term "affected domestic producer" means any manufacturer, producer, farmer, rancher or worker representative (including associations of such persons) who:

(A) Was a petitioner or interested party in support of a petition with respect to which an antidumping order, a finding under the Antidumping Act of 1921, or a countervailing duty order that has been entered,

(B) Remains in operation continuing to produce the product covered by a countervailing duty order, an antidumping duty order, or a finding under the Antidumping Act of 1921, and

(C) If a company, has not been acquired by another company or business that is related to a company that opposed the antidumping or countervailing duty investigation that led to the order or finding, *e.g.,* opposed the petition or otherwise presented evidence in opposition to the petition. The distribution that these parties may receive is known as the continued dumping and subsidy offset.

Section 7601(a) of the Deficit Reduction Act of 2005 repealed 19 U.S.C. 1675c. According to § 7701 of the Deficit Reduction Act, the repeal takes effect as if enacted on October 1, 2005. However, § 7601(b) provided that all duties collected on an entry filed before October 1, 2007, shall be distributed as if 19 U.S.C. 1675c had not been repealed by § 7601(a).

Consequently, the full impact of the CDSOA repeal on amounts available for distribution may be delayed for several years. First, money collected on an entry filed before October 1, 2007, will continue to be subject to the distribution procedures under former § 1675c. Second, the antidumping and countervailing duty on an entry is not available for distribution until the entry is liquidated pursuant to the direction of the Department of Commerce and the duty is collected and deposited into the special account; therefore, the distribution process will continue until all entries made before October 1, 2007, are liquidated and the antidumping and countervailing duties are collected. Because of the statutory constraints in the assessments of antidumping and countervailing duties, the distribution process will be continued for an undetermined period; however, the amount of money available for distribution can be expected to diminish over time. It should also be noted that amounts distributed may be subject to recovery as a result of reliquidations, court actions, administrative errors, and other reasons.

List of Orders or Findings and Affected Domestic Producers

It is the responsibility of the U.S. International Trade Commission (USITC) to ascertain and timely forward to U.S. Customs and Border Protection (CBP) a list of the affected domestic producers that are potentially eligible to receive an offset in connection with an order or finding. In this regard, it is noted that USITC has supplied CBP with the list of individual antidumping and countervailing duty cases, and the affected domestic producers associated with each case who are potentially eligible to receive an offset. This list appears at the end of this document.

The courts have interpreted various provisions of the CDSOA, particularly those related to the definition of the term "affected domestic producer." In both *SKF USA Inc.* v. *United States,* 451 F. Supp. 2d 1355 (Ct. Int'l Trade 2006), and *PS Chez Sidney, L.L.C.* v. *United States,* 502 F. Supp. 2d 1318, 1325 (Ct. Int'l Trade 2007), the U.S. Court of International Trade (CIT) held that the CDSOA's support requirement was unconstitutional and severed this requirement for eligibility and remanded the matters to the USITC and CBP to review their decisions regarding CDSOA distributions. Both cases have been appealed. The CIT subsequently affirmed the USITC and CBP remand actions for both cases in *SKF USA INC.* v. *United States,* 502 F. Supp. 2d 1325 (Ct. Int'l Trade 2007), and *PS Chez Sidney, L.L.C.* v. *United States,* 558 F. Supp. 2d 1370 (Ct. Int'l Trade 2008). *SKF* was reversed by the Court of Appeals for the Federal Circuit (CAFC) in *SKF USA, Inc.* v. *United States,* 556 F. 3d 1337 (Fed. Circ. 2009). The CAFC held that the CDSOA's support requirement did not violate either the

First Amendment or the Fifth Amendment. The Supreme Court of the United States denied plaintiff's petition for certiorari, 2010 U.S. Lexis 3940 (May 17, 2010). However, this decision may be subject to further judicial review through a request for a rehearing. The CIT's decision in *PS Chez Sidney, L.L.C.* has been appealed to the CAFC, and the appeal has been stayed pending final disposition of *SKF.*

In another relevant court case, *Pat Huval Restaurant & Oyster Bar, Inc.* v. *United States,* 547 F. Supp. 2d 1352 (Ct. Int'l Trade 2008), the CIT held that a domestic producer's failure to file timely certification in certain fiscal years was not necessarily a bar to seek judicial review for disbursement made within two years of filing suit because "Customs could have done nothing but reject them." That litigation is ongoing.

As a result of these decisions and a number of other pending cases, CBP has calculated and withheld from distribution an amount corresponding to the pro-rata share of all domestic producers who have filed timely and factually accurate certifications starting in 2006, despite the fact that some claimants may not have appeared on the ITC list. Therefore, at a minimum, even under the relevant court decisions, it would not have been futile for domestic producers not appearing on the ITC list to file certifications starting in fiscal year 2006. CBP will determine the proper recipients of these funds once certain legal issues are resolved. As a result, domestic producers who are not on the USITC list but believe they nonetheless are eligible for a CDSOA distribution under one or more antidumping and/or countervailing duty cases are required, as are all potential claimants that expressly appear on the list, to file their certification(s) within 60 days after this notice is published. Certifications that are not timely filed within the requisite 60 days will be summarily denied.

The CAFC ruled in *Canadian Lumber Trade Alliance* v. *United States,* 517 F.3d 1319 (Fed. Cir. 2008), *cert. denied sub nom. United States Steel* v. *Canadian Lumber Trade Alliance,* 129 S. Ct. 344 (2008), that CBP was not authorized to distribute such antidumping and countervailing duties to the extent they were derived from goods from countries that are parties to the North American Free Trade Agreement (NAFTA). Due to this decision, CBP will no longer list cases related to NAFTA on the Preliminary Amounts Available report, and no distributions will be issued on these cases.

Regulations Implementing the CDSOA

It is noted that CBP published Treasury Decision (T.D.) 01–68 (Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers) in the **Federal Register** (66 FR 48546) on September 21, 2001, which was effective as of that date, in order to implement the CDSOA. The final rule added a new subpart F to part 159 of title 19, Code of Federal Regulations (19 CFR part 159, subpart F (§§ 159.61–159.64)). More specific guidance regarding the filing of certifications is provided in this notice in order to aid affected domestic producers and other domestic producer alleging eligibility ("claimants" or "domestic producers").

Notice of Intent to Distribute Offset

This document announces that CBP intends to distribute to affected domestic producers the assessed antidumping or countervailing duties that are available for distribution in Fiscal Year 2010 in connection with those antidumping duty orders or findings or countervailing duty orders that are listed in this document. Section 159.62(a) of title 19 (19 CFR 159.62(a)) provides that CBP will publish such a notice of intention to distribute assessed duties at least 90 calendar days before the end of a fiscal year. Failure to publish the notice at least 90 calendar days before the end of the fiscal year will not impact an affected domestic producer's obligation to file a timely certification within 60 days after the notice is published. *See, Dixon Ticonderoga* v. *United States,* 468 F.3d 1353, 1354 (Fed. Cir. 2006).

Certifications; Submission and Content

To obtain a distribution of the offset under a given order or finding, an affected domestic producer (and anyone alleging eligibility to receive a distribution) must submit a certification for each order or finding under which a distribution is sought, to CBP, indicating their desire to receive a distribution. To be eligible to obtain a distribution, certifications must be received by CBP no later than 60 calendar days after the date of publication of this notice of intent to distribute in the **Federal Register**. All certifications not received by the 60th day will not be eligible to receive a distribution.

As required by 19 CFR 159.62(b), this notice provides the case name and number of the order or finding concerned, as well as the specific instructions for filing a certification under § 159.63 to claim a distribution. Section 159.62(b) also provides that the dollar amounts subject to distribution that are contained in the Special Account for each listed order or finding are to appear in this notice. However, these dollar amounts were not available in time for inclusion in this publication. The preliminary amounts will be posted on the CBP Web site (*http://www.cbp.gov*). However, the final amounts available for disbursement may be higher or lower than the preliminary amounts.

CBP will provide general information to claimants regarding the preparation of certification(s). However, it remains the sole responsibility of the domestic producer to ensure that the certification is correct, complete, and accurate so as to demonstrate the eligibility of the domestic producer for the distribution requested. Failure to ensure that the certification is correct, complete, and accurate as provided in this notice will result in the domestic producer not receiving a distribution.

Specifically, to obtain a distribution of the offset under a given order or finding, each potential claimant must timely submit a certification containing the required information detailed below as to the eligibility of the domestic producer to receive the requested distribution and the total amount of the distribution that the domestic producer is claiming. Certifications should be submitted to the Assistant Commissioner, Office of Administration, U.S. Customs and Border Protection, Revenue Division. The certification must enumerate the qualifying expenditures incurred by the domestic producer since the issuance of an order or finding and it must demonstrate that the domestic producer is eligible to receive a distribution as an affected domestic producer or allege another basis for eligibility.

A successor to a company that was an affected domestic producer at the time of acquisition should consult 19 CFR 159.61(b)(1)(i). We note that the successor company may assume joint and several liability for the return of any overpayments arising under § 159.64(c)(3) that were previously paid to the predecessor. CBP may require the successor company to provide documents to support its eligibility to receive a distribution as set out in § 159.63(d).

A member company (or its successor) of an association that appears on the list of affected domestic producers in this notice, where the member company itself does not appear on this list, should consult 19 CFR 159.61(b)(1)(ii). Specifically, for a certification under 19 CFR 159.61(b)(1)(ii), the claimant must

name the association of which it is a member and specifically establish that it was a member of the association at the time the association filed the petition with the USITC and establish that the company is a current member of the association. In order to promote accurate filings and more efficiently process the distributions, we offer the following guidance. If claimants are members of an association but the association does not file on their behalf, each association will need to provide their members with a statement which contains notarized company specific information including dates of membership, and an original signature from an authorized representative of the association. An association filing a certification on behalf of a member must also provide a power of attorney or other evidence of legal authorization from each of the domestic producers it is representing. An association filing a certification on behalf of a member is responsible for verifying the accuracy of the member's financial records, which support their claim, and is responsible for that certification. Any association filing a certification on behalf of a member is responsible for verifying the legal sufficiency and accuracy of the member's financial records, which support the claim and may be liable for repayment of any claim found to have been paid in error.

The association may file a certification in its own right to claim an offset for that order or finding, but its qualifying expenditures would be limited to those expenditures that the association itself has incurred after the date of the order or finding in connection with the particular case.

As provided in 19 CFR 159.63(a), certifications to obtain a distribution of an offset must be received by CBP no later than 60 calendar days after the date of publication of the notice of intent in the **Federal Register**. All certifications received after the 60-day deadline will be summarily denied, making claimants ineligible for the distribution regardless of whether or not they appeared on the USITC list.

A list of all certifications received will be published on the CBP Web site shortly after the receipt deadline. This publication will not confirm acceptance or validity of the certification, but merely receipt of the certification. Due to the high volume of certifications, CBP is unable to respond to individual telephone or written inquiries regarding the status of a certification appearing on the list.

While there is no required format for a certification, CBP has developed a standard certification form to aid claimants in filing certifications. The certification form is available at *http://www.pay.gov* under Public Form Name entitled CDSOA. The certification form also follows this **Federal Register** Notice. The certification form can be submitted electronically through *http://www.pay.gov* or by mail. All certifications not submitted electronically must include original signatures.

Regardless of the format for a certification, per 19 CFR 159.63(b), the certification must contain the following information:

1. The date of this **Federal Register** notice;
2. The Commerce case number;
3. The case name (producer/country);
4. The name of the domestic producer and any name qualifier, if applicable (for example, any other name under which the domestic producer does business or is also known);
5. The mailing address of the domestic producer (if a post office box, the physical street address must also appear) including, if applicable, a specific room number or department;
6. The Internal Revenue Service (IRS) number (with suffix) of the domestic producer, employer identification number, or social security number, as applicable;
7. The specific business organization of the domestic producer (corporation, partnership, sole proprietorship);
8. The name(s) of any individual(s) designated by the domestic producer as the contact person(s) concerning the certification, together with the phone number(s), mailing address, and, if available, facsimile transmission number(s) and electronic mail (e-mail) address(es) for the person(s). Correspondence from CBP will be directed to the designated contact(s) by either mail or phone or both;
9. The total dollar amount claimed;
10. The dollar amount claimed by category, as described in the section below entitled "Amount Claimed for Distribution";
11. A statement of eligibility, as described in the section below entitled "Eligibility to Receive Distribution"; and
12. For certifications not submitted electronically through www.pay.gov, an original signature by an individual legally authorized to bind the producer.

Qualifying Expenditure Which May Be Claimed for Distribution

Qualifying expenditures which may be offset by a distribution of assessed antidumping and countervailing duties encompass those expenditures that are incurred by the domestic producer after issuance of an antidumping duty order or finding or a countervailing duty order, and prior to its termination, provided that such expenditures fall within certain categories. The repeal language parallels the termination of an order. Therefore, for duty orders or findings that have not been previously revoked, expenses must be incurred before October 1, 2007, to be eligible for offset. For duty orders or findings that have been revoked, expenses must be incurred before the effective date of the revocation to be eligible for offset. For example, assume for case A–331–802 certain frozen warm-water shrimp and prawns from Ecuador, that the order date is February 1, 2005 and that the revocation effective date is August 15, 2007. In this case, eligible expenditures would have to be incurred between February 1, 2005 and August 15, 2007.

For the convenience and ease of the domestic producers, CBP is providing guidance on what the agency takes into consideration when making a calculation for each of the following categories: (1) Manufacturing facilities (Any facility used for the transformation of raw material into a finished product that is the subject of the related order or finding); (2) Equipment (Goods that are used in a business environment to aid in the manufacturing of a product that is the subject of the related order or finding); (3) Research and development (Seeking knowledge and determining the best techniques for production of the product that is the subject of the related order or finding); (4) Personnel training (Teaching of specific useful skills to personnel, that will improve performance in the production process of the product that is the subject of the related order or finding); (5) Acquisition of technology (Acquisition of applied scientific knowledge and materials to achieve an objective in the production process of the product that is the subject of the related order or finding); (6) Health care benefits for employees paid for by the employer (Health care benefits paid to employees who are producing the specific product that is the subject of the related order or finding); (7) Pension benefits for employees paid for by the employer (Pension benefits paid to employees who are producing the specific product that is the subject of the related order or finding); (8) Environmental equipment, training, or technology (Equipment, training, or technology used in the production of the product that is the subject of the related order or finding, that will assist in preventing potentially harmful factors from impacting the environment); (9) Acquisition of raw materials and other inputs (Purchase of

unprocessed materials or other inputs needed for the production of the product that is the subject of the related order or finding); and (10) Working capital or other funds needed to maintain production (Assets of a business that can be applied to its production of the product that is the subject of the related order or finding).

Amount Claimed for Distribution

In calculating the amount of the distribution being claimed as an offset, the certification must indicate: (1) The total amount of any qualifying expenditures previously certified by the domestic producer, and the amount certified by category; (2) The total amount of those expenditures which have been the subject of any prior distribution for the order or finding being certified under 19 U.S.C. 1675c; and (3) The net amount for new and remaining qualifying expenditures being claimed in the current certification (the total amount previously certified as noted in item "(1)" above minus the total amount that was the subject of any prior distribution as noted in item "(2)" above). In accordance with 19 CFR 159.63(b)(2)(i)–(b)(2)(iii), CBP will deduct the amount of any prior distribution from the producer's claimed amount for that case. Total amounts disbursed by CBP under the CDSOA for Fiscal Years 2001 through 2009 are available on the CBP Web site.

Additionally, under 19 CFR 159.61(c), these qualifying expenditures must be related to the production of the same product that is the subject of the order or finding, with the exception of expenses incurred by associations which must be related to a specific case.

Eligibility To Receive Distribution

As noted, the certification must contain a statement that the domestic producer desires to receive a distribution and is eligible to receive the distribution as an affected domestic producer or on another legal basis. Also, the domestic producer must affirm that the net amount certified for distribution does not encompass any qualifying expenditures for which distribution has previously been made (19 CFR 159.63(b)(3)(i)).

Furthermore, under 19 CFR 159.63(b)(3)(ii), where a domestic producer files a separate certification for more than one order or finding using the same qualifying expenditures as the basis for distribution in each case, each certification must list all the other orders or findings where the producer is claiming the same qualifying expenditures.

Moreover, as required by 19 U.S.C. 1675c(b)(1) and 19 CFR 159.63(b)(3)(iii), the certification must include information as to whether the domestic producer remains in operation at the time the certifications are filed and continues to produce the product covered by the particular order or finding under which the distribution is sought. If a domestic producer is no longer in operation, or no longer produces the product covered by the order or finding, the producer will not be considered an affected domestic producer entitled to receive a distribution.

In addition, as required by 19 U.S.C 1675c(b)(5) and 19 CFR 159.63(b)(3)(iii), the domestic producer must state whether it has been acquired by a company that opposed the investigation or was acquired by a business related to a company that opposed the investigation. If a domestic producer has been so acquired, the producer will not be considered an affected domestic producer entitled to receive a distribution. However, CBP may not make a final decision regarding a claimant's eligibility to receive funds until certain legal issues which may affect that claimant's eligibility are resolved. In these instances, CBP may withhold an amount of funds corresponding to the claimant's alleged pro rata share of funds from distribution pending the resolution of those legal issues.

The certification must be executed and dated by a party legally authorized to bind the domestic producer and it must state that the information contained in the certification is true and accurate to the best of the certifier's knowledge and belief under penalty of law, and that the domestic producer has records to support the qualifying expenditures being claimed (see section below entitled "Verification of Certification").

Moreover as provided in 19 CFR 159.64(b)(3), overpayments to affected domestic producers are recoverable by CBP and CBP reserves the right to use all available collection tools to recover overpayments. Overpayments may occur for a variety of reasons such as reliquidations, court actions, and administrative errors.

Review and Correction of Certification

A certification that is submitted in response to this notice of distribution and received within 60 calendar days after the date of publication of the notice in the **Federal Register** may, at CBP's sole discretion, be subject to review before acceptance to ensure that all informational requirements are complied with and that any amounts set forth in the certification for qualifying expenditures, including the amount claimed for distribution, appear to be correct. A certification that is found to be materially incorrect or incomplete will be returned to the domestic producer within 15 business days after the close of the 60 calendar-day filing period, as provided in 19 CFR 159.63(c). CBP must receive a corrected certification from the domestic producer and/or an association filing on behalf of an association member within 10 business days from the date of the original denial letter. Failure to receive a corrected certification within 10 business days will result in denial of the certification at issue. It is the sole responsibility of the domestic producer to ensure that the certification is correct, complete, and satisfactory so as to demonstrate the eligibility of the domestic producer to the distribution requested. Failure to ensure that the certification is correct, complete, and satisfactory will result in the domestic producer not receiving a distribution.

Verification of Certification

Certifications are subject to CBP's verification. Claimants may also be required to provide copies of additional records for further review by CBP. Therefore, parties are required to maintain records supporting their claims for a period of five years after the filing of the certification (19 CFR 159.63(d)). The records must support each qualifying expenditure enumerated in the certification and they must support how the qualifying expenditures are determined to be related to the production of the product covered by the order or finding. Although CBP will accept comments and information from the public and other domestic producers, CBP retains complete discretion regarding the initiation and conduct of investigations stemming from such information.

Disclosure of Information in Certifications; Acceptance by Producer

The name of the claimant, the total dollar amount claimed by the party on the certification, as well as the total dollar amount that CBP actually disburses to that affected domestic producer as an offset, will be available for disclosure to the public, as specified in 19 CFR 159.63(e). To this extent, the submission of the certification is construed as an understanding and acceptance on the part of the domestic producer that this information will be disclosed to the public. Alternatively, a statement in a certification that this information is proprietary and exempt

from disclosure will result in CBP's rejection of the certification.

List of Orders or Findings and Related Domestic Producers

The list of individual antidumping duty orders or findings and countervailing duty orders is set forth below (following the CDSOA certification form), together with the affected domestic producers associated with each order or finding who are potentially eligible to receive an offset. Those domestic producers not on the list must allege another basis for eligibility in their certification.

Dated: May 26, 2010.

Eugene H. Schied,

Assistant Commissioner, Office of Administration.

BILLING CODE 9111–14–P

Department of Homeland Security
U.S. Customs and Border Protection
Continued Dumping and Subsidy Offset Act of 2000 Form

OMB No. 1651-0086

Claimant's Information

1. Claimant's Name: _____
(As it appears on USITC List or Association Membership List, if applicable)
(If person's name list Last Name, First Name)

2. Mailing Address: _____

3. Address 2: _____

4. City: _____

5. State: _____

6. ZIP/Postal Code: _____

☐ Check here if Mailing Address is a PO Box.
(Street Address is required when Mailing Address is a PO Box)

7. Street Address: _____

8. Address 2: _____

9. City: _____

10. State: _____

11. ZIP/Postal Code: _____

12. Business Type (select one):

- ○ Sole Proprietorship
- ○ Partnership
- ○ Corporation

13. Number Type (select one and enter number below):

- ○ Social Security Number
- ○ Employee Identification Number
- ○ Federal Tax Identification Number

Enter Number Here _____

Contact Information (Primary Contact For All Certification Related Inquiries)

14. Contact Person: _____ 15. Contact Email: _____

16. Contact Phone: _____ 17. Contact Fax: _____

(If Different From Claimant's Mailing Address)

18. Address: _____

19. Address 2: _____

20. City: _____

21. State: _____

22. ZIP/Postal Code: _____

OMB No. 1651-0086

Federal Register Notice Information

23. Date of Federal Register Notice: _____

24. Are you claiming a CDSOA distribution as a successor company? (See 19 C.F.R. 159.61(b)(i)) ○ Yes ○ No

If YES, please provide the name of the company and the date of the succession:

Name _____ Date _____

25. Are you an association, coalition, or cooperative that appears on the USITC list and files on behalf of your members? (See 19 C.F.R 159.61(b)(ii)) ○ Yes ○ No

If YES, please provide Power of Attorney within 10 days of filing certification. Please mail Power of Attorney to the following address:

Assistant Commissioner
Office of Administration
U.S. Customs and Border Protection
Revenue Division
Attn: Melissa Kurth
6650 Telecom Drive
Indianapolis, IN 46278

26. Are you filing as a member of an association, coalition, or cooperative that appears on the USITC list? ○ Yes ○ No

If YES, please provide name of organization and the date you became a member:

Name _____ Start Date _____

Previously Certified Qualifying Expenditures for All Filing Years

27. Manufacturing Facilities _____

28. Equipment _____

29. Research and Development _____

30. Personnel Training _____

31. Acquisition of Technology _____

32. Health Care Benefits for Employees Paid For by the Employer _____

33. Pension Benefits for Employees Paid For by the Employer _____

34. Environmental Equipment, Training or Technology _____

35. Acquisition of Raw Materials and Other Inputs _____

36. Working Capital or Other Funds Needed to Maintain Production _____

37. Total Amount of Qualifying Expenditures Previously Certified _____

OMB No. 1651-0086

Commerce Case Information

38. Total Amount of Qualifying Expenditures Previously Certified (from question #37 pg 2) _____

39. List Case Information For All The Cases With The Same Qualifying Expenditures On The Lines Provided Below
*Formula (Total Amt of Qualifying Expenditures Previously Certified - Prior Year Distributions = Net Amt)

Commerce Case Number	Commerce Case Name (Product/Country)	Total Amount of Prior Distributions for this case	Net Amount of Qualifying Expenditures

OMB No. 1651-0086

Statement of Eligibility

40._____(Claimant's Name as it appears on USITC List or Association Membership List, if applicable) desire to receive a distribution and is eligible to receive a distribution as an affected domestic producer. I affirm that the net amount certified for distribution does not encompass any qualifying expenditures for which distributions previously have been made.

41._____(Claimant's Name as it appears on USITC List or Association Membership List, if applicable) remains in operation and continues to produce the product covered by the particular order or finding under which the distribution is sought.

42._____(Claimant's Name as it appears on USITC List or Association Membership List, if applicable) has not been acquired by a company that opposed the investigation or acquired by a business related to a company that opposed the investigation.

Certification

The information contained in this certification is true and accurate to the best of the knowledge and belief, under penalty of law, of the claimant and the claimant has records to support the qualifying expenditures being claimed.

_____ _____

43. Print Name of Person(s) Legally Authorized to Bind Producer 44. Date

_____

45. Signature of Person(s) Legally Authorized to Bind Producer

_____

46. Title of Person(s) Legally Authorized to Bind Producer

47. By submitting this certification, the certifier, _____, states that they are legally authorized to bind the producer and that information contained in the certification is true and accurate to the best of the certifier's knowledge and belief under penalty of law and the domestic producer has records to support the qualifying expenditures being claimed.

Privacy and Paperwork Reduction Act Statement

This statement is provided pursuant to the Privacy Act of 1974 (P.L. 93-579) for individuals seeking distributions under the Continued Dumping and Subsidy Offset Act of 2000 (19 U.S.C. § 1675c, as amended). The requested information is collected under the authority of 19 U.S.C. 1675c. The information collected on this form will be used by CBP to determine a claimant's eligibility for a distribution under the Continued Dumping and Subsidy Offset Act of 2000. Furnishing the information on this form is voluntary, however, failure to provide all requested information may result in denial of your certification. The name of the claimant, the total dollar amount claimed by that party on the certification, as well as the total dollar amount that CBP actually disburses to that claimant as an offset, will be available for disclosure to the public, as specified in 19 C.F.R. § 159.63. Public Law 104-134 (April 26, 1996) requires that any person doing business with the Federal government furnish a social security number or tax identification number.

We estimate this form will take an average of 1 hour to complete, including the time for reviewing instructions, getting the needed data, and reviewing the completed form. Send comments regarding our estimate or any other aspect of this form, including suggestions for reducing completion time, to CBP Office of Administration Revenue Division. The OMB number, 1651-0086, is currently valid. CBP may not collect this information, and you are not required to respond, unless this number is displayed.

BILLING CODE 9111–14–C

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–122–006	AA1921–49	Steel Jacks/Canada	Bloomfield Manufacturing (formerly Harrah Manufacturing) Seaburn Metal Products
A–122–047	AA1921–127	Elemental Sulphur/Canada	Duval
A–122–085	731–TA–3	Sugar and Syrups/Canada	Amstar Sugar
A–122–401	731–TA–196	Red Raspberries/Canada	Northwest Food Producers' Association Oregon Caneberry Commission Rader Farms Ron Roberts Shuksan Frozen Food Washington Red Raspberry Commission
A–122–503	731–TA–263	Iron Construction Castings/Canada	Alhambra Foundry Allegheny Foundry Bingham & Taylor Campbell Foundry Charlotte Pipe & Foundry Deeter Foundry East Jordan Foundry Le Baron Foundry Municipal Castings Neenah Foundry Opelika Foundry Pinkerton Foundry Tyler Pipe US Foundry & Manufacturing Vulcan Foundry
A–122–506	731–TA–276	Oil Country Tubular Goods/Canada	CF&I Steel Copperweld Tubing Cyclops KPC Lone Star Steel LTV Steel Maverick Tube Quanex US Steel
A–122–601	731–TA–312	Brass Sheet and Strip/Canada	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper Hussey Copper International Association of Machinists & Aerospace Workers Mechanics Educational Society of America (Local 56) The Miller Company Olin Revere Copper Products United Steelworkers of America
A–122–605	731–TA–367	Color Picture Tubes/Canada	Industrial Union Department, AFL–CIO International Association of Machinists & Aerospace Workers International Brotherhood of Electrical Workers International Union of Electronic, Electrical, Technical, Salaried and Machine Workers Philips Electronic Components Group United Steelworkers of America Zenith Electronics
A–122–804	731–TA–422	Steel Rails/Canada	Bethlehem Steel CF&I Steel
A–122–814	731–TA–528	Pure Magnesium/Canada	Magnesium Corporation of America
A–122–822	731–TA–614	Corrosion-Resistant Carbon Steel Flat Products/ Canada.	Armco Steel Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries LTV Steel Lukens Steel National Steel Nextech Rouge Steel Co Sharon Steel

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Theis Precision Steel
			Thompson Steel
			US Steel
			United Steelworkers of America
			WCI Steel
			Weirton Steel
A–122–823	731–TA–575	Cut-to-Length Carbon Steel Plate/Canada	Bethlehem Steel
			California Steel Industries
			Geneva Steel
			Gulf States Steel
			Inland Steel Industries
			Lukens Steel
			National Steel
			Nextech
			Sharon Steel
			Theis Precision Steel
			Thompson Steel
			US Steel
			United Steelworkers of America
A–122–830	731–TA–789	Stainless Steel Plate in Coils/Canada	Allegheny Ludlum
			Armco Steel
			J&L Specialty Steel
			Lukens Steel
			North American Stainless
A–122–838	731–TA–928	Softwood Lumber/Canada	71 Lumber Co
			Almond Bros Lbr Co
			Anthony Timberlands
			Balfour Lbr Co
			Ball Lumber
			Banks Lumber Company
			Barge Forest Products Co
			Beadles Lumber Co
			Bearden Lumber
			Bennett Lumber
			Big Valley Band Mill
			Bighorn Lumber Co Inc
			Blue Mountain Lumber
			Buddy Bean Lumber
			Burgin Lumber Co Ltd
			Burt Lumber Company
			C&D Lumber Co
			Ceda-Pine Veneer
			Cersosimo Lumber Co Inc
			Charles Ingram Lumber Co Inc
			Charleston Heart Pine
			Chesterfield Lumber
			Chips
			Chocorua Valley Lumber Co
			Claude Howard Lumber
			Clearwater Forest Industries
			CLW Inc
			CM Tucker Lumber Corp
			Coalition for Fair Lumber Imports Executive Committee
			Cody Lumber Co
			Collins Pine Co
			Collums Lumber
			Columbus Lumber Co
			Contoocook River Lumber
			Conway Guiteau Lumber
			Cornwright Lumber Co
			Crown Pacific
			Daniels Lumber Inc
			Dean Lumber Co Inc
			Deltic Timber Corporation
			Devils Tower Forest Products
			DiPrizio Pine Sales
			Dorchester Lumber Co
			DR Johnson Lumber
			East Brainerd Lumber Co
			East Coast Lumber Company
			Eas-Tex Lumber
			ECK Wood Products

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Ellingson Lumber Co Elliott Sawmilling Empire Lumber Co Evergreen Forest Products Excalibur Shelving Systems Inc Exley Lumber Co FH Stoltze Land & Lumber Co FL Turlington Lbr Co Inc Fleming Lumber Flippo Lumber Floragen Forest Products Frank Lumber Co Franklin Timber Co Fred Tebb & Sons Fremont Sawmill Frontier Resources Garrison Brothers Lumber Co and Subsidiaries Georgia Lumber Gilman Building Products Godfrey Lumber Granite State Forest Prod Inc Great Western Lumber Co Greenville Molding Inc Griffin Lumber Company Guess Brothers Lumber Gulf Lumber Gulf States Paper Guy Bennett Lumber Hampton Resources Hancock Lumber Hankins Inc Hankins Lumber Co Harrigan Lumber Harwood Products Haskell Lumber Inc Hatfield Lumber Hedstrom Lumber Herrick Millwork Inc HG Toler & Son Lumber Co Inc HG Wood Industries LLC Hogan & Storey Wood Prod Hogan Lumber Co Hood Industries HS Hofler & Sons Lumber Co Inc Hubbard Forest Ind Inc HW Culp Lumber Co Idaho Veneer Co Industrial Wood Products Intermountain Res LLC International Paper J Franklin Jones Lumber Co Inc Jack Batte & Sons Inc Jasper Lumber Company JD Martin Lumber Co JE Jones Lumber Co Jerry G Williams & Sons JH Knighton Lumber Co Johnson Lumber Company Jordan Lumber & Supply Joseph Timber Co JP Haynes Lbr Co Inc JV Wells Inc JW Jones Lumber Keadle Lumber Enterprises Keller Lumber King Lumber Co Konkolville Lumber Langdale Forest Products Laurel Lumber Company Leavitt Lumber Co Leesville Lumber Co Limington Lumber Co Longview Fibre Co

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Lovell Lumber Co Inc M Kendall Lumber Co Manke Lumber Co Marriner Lumber Co Mason Lumber MB Heath & Sons Lumber Co MC Dixon Lumber Co Inc Mebane Lumber Co Inc Metcalf Lumber Co Inc Millry Mill Co Inc Moose Creek Lumber Co Moose River Lumber Morgan Lumber Co Inc Mount Yonah Lumber Co Nagel Lumber New Kearsarge Corp New South Nicolet Hardwoods Nieman Sawmills SD Nieman Sawmills WY North Florida Northern Lights Timber & Lumber Northern Neck Lumber Co Ochoco Lumber Co Olon Belcher Lumber Co Owens and Hurst Lumber Packaging Corp of America Page & Hill Forest Products Paper, Allied-Industrial, Chemical and Energy Workers International Union Parker Lumber Pate Lumber Co Inc PBS Lumber Pedigo Lumber Co Piedmont Hardwood Lumber Co Pine River Lumber Co Pinecrest Lumber Co Pleasant River Lumber Co Pleasant Western Lumber Inc Plum Creek Timber Pollard Lumber Portac Potlatch Potomac Supply Precision Lumber Inc Pruitt Lumber Inc R Leon Williams Lumber Co RA Yancey Lumber Rajala Timber Co Ralph Hamel Forest Products Randy D Miller Lumber Rappahannock Lumber Co Regulus Stud Mills Inc Riley Creek Lumber Roanoke Lumber Co Robbins Lumber Robertson Lumber Roseburg Forest Products Co Rough & Ready RSG Forest Products Rushmore Forest Products RY Timber Inc Sam Mabry Lumber Co Scotch Lumber SDS Lumber Co Seacoast Mills Inc Seago Lumber Seattle-Snohomish Seneca Sawmill Shaver Wood Products Shearer Lumber Products Shuqualak Lumber SI Storey Lumber

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Sierra Forest Products
			Sierra Pacific Industries
			Sigfridson Wood Products
			Silver City Lumber Inc
			Somers Lbr & Mfg Inc
			South & Jones
			South Coast
			Southern Forest Industries Inc
			Southern Lumber
			St Laurent Forest Products
			Starfire Lumber Co
			Steely Lumber Co Inc
			Stimson Lumber
			Summit Timber Co
			Sundance Lumber
			Superior Lumber
			Swanson Superior Forest Products Inc
			Swift Lumber
			Tamarack Mill
			Taylor Lumber & Treating Inc
			Temple-Inland Forest Products
			Thompson River Lumber
			Three Rivers Timber
			Thrift Brothers Lumber Co Inc
			Timco Inc
			Tolleson Lumber
			Toney Lumber
			TR Miller Mill Co
			Tradewinds of Virginia Ltd
			Travis Lumber Co
			Tree Source Industries Inc
			Tri-State Lumber
			TTT Studs
			United Brotherhood of Carpenters and Joiners
			Viking Lumber Co
			VP Kiser Lumber Co
			Walton Lumber Co Inc
			Warm Springs Forest Products
			Westvaco Corp
			Wilkins, Kaiser & Olsen Inc
			WM Shepherd Lumber Co
			WR Robinson Lumber Co Inc
			Wrenn Brothers Inc
			Wyoming Sawmills
			Yakama Forest Products
			Younce & Ralph Lumber Co Inc
			Zip-O–Log Mills Inc
A–122–840	731–TA–954	Carbon and Certain Alloy Steel Wire Rod/Canada ..	AmeriSteel
			Birmingham Steel
			Cascade Steel Rolling Mills
			Connecticut Steel Corp
			Co-Steel Raritan
			GS Industries
			Keystone Consolidated Industries
			North Star Steel Texas
			Nucor Steel-Nebraska (a division of Nucor Corp)
			Republic Technologies International
			Rocky Mountain Steel Mills
A–122–847	731–TA–1019B	Hard Red Spring Wheat/Canada	North Dakota Wheat Commission
A–201–504	731–TA–297	Porcelain-on-Steel Cooking Ware/Mexico	General Housewares
A–201–601	731–TA–333	Fresh Cut Flowers/Mexico	Burdette Coward
			California Floral Council
			Floral Trade Council
			Florida Flower Association
			Gold Coast Uanko Nursery
			Hollandia Wholesale Florist
			Manatee Fruit
			Monterey Flower Farms
			Topstar Nursery
A–201–802	731–TA–451	Gray Portland Cement and Clinker/Mexico	Alamo Cement
			Blue Circle
			BoxCrow Cement
			Calaveras Cement

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Capitol Aggregates Centex Cement Florida Crushed Stone Gifford-Hill Hanson Permanente Cement Ideal Basic Industries Independent Workers of North America (Locals 49, 52, 89, 192 and 471) International Union of Operating Engineers (Local 12) National Cement Company of Alabama National Cement Company of California Phoenix Cement Riverside Cement Southdown Tarmac America Texas Industries
A–201–805	731–TA–534	Circular Welded Nonalloy Steel Pipe/Mexico	Allied Tube & Conduit American Tube Bull Moose Tube Century Tube CSI Tubular Products Cyclops Laclede Steel LTV Tubular Products Maruichi American Sharon Tube USX Western Tube & Conduit Wheatland Tube
A–201–806	731–TA–547	Carbon Steel Wire Rope/Mexico	Bridon American Macwhyte Paulsen Wire Rope The Rochester Corporation United Automobile, Aerospace and Agricultural Implement Workers (Local 960) Williamsport Wire-rope Works Wire Rope Corporation of America
A–201–809	731–TA–582	Cut-to-Length Carbon Steel Plate/Mexico	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A–201–817	731–TA–716	Oil Country Tubular Goods/Mexico	IPSCO Koppel Steel Maverick Tube Newport Steel North Star Steel US Steel USS/Kobe
A–201–820	731–TA–747	Fresh Tomatoes/Mexico	Accomack County Farm Bureau Ad Hoc Group of Florida, California, Georgia, Pennsylvania, South Carolina, Tennessee and Virginia Tomato Growers Florida Farm Bureau Federation Florida Fruit and Vegetable Association Florida Tomato Exchange Florida Tomato Growers Exchange Gadsden County Tomato Growers Association South Carolina Tomato Association
A–201–822	731–TA–802	Stainless Steel Sheet and Strip/Mexico	Allegheny Ludlum Armco Bethlehem Steel

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Carpenter Technology Corp
			J&L Specialty Steel
			North American Stainless
			United Steelworkers of America
A–201–827	731–TA–848	Large-Diameter Carbon Steel Seamless Pipe/Mexico.	North Star Steel
			Timken
			US Steel
			United Steelworkers of America
			USS/Kobe
A–201–828	731–TA–920	Welded Large Diameter Line Pipe/Mexico	American Cast Iron Pipe
			Berg Steel Pipe
			Bethlehem Steel
			Napa Pipe/Oregon Steel Mills
			Saw Pipes USA
			Stupp
			US Steel
A–201–830	731–TA–958	Carbon and Certain Alloy Steel Wire Rod/Mexico	AmeriSteel
			Birmingham Steel
			Cascade Steel Rolling Mills
			Connecticut Steel Corp
			Co-Steel Raritan
			GS Industries
			Keystone Consolidated Industries
			North Star Steel Texas
			Nucor Steel-Nebraska (a division of Nucor Corp)
			Republic Technologies International
			Rocky Mountain Steel Mills
A–201–831	731–TA–1027 ...	Prestressed Concrete Steel Wire Strand/Mexico	American Spring Wire Corp
			Insteel Wire Products Co
			Sivaco Georgia LLC
			Strand Tech Martin Inc
			Sumiden Wire Products Corp
A–201–834	731–TA–1085 ...	Purified Carboxymethylcellulose/Mexico	Aqualon Co a Division of Hercules Inc
A–274–804	731–TA–961	Carbon and Certain Alloy Steel Wire Rod/Trinidad & Tobago.	AmeriSteel
			Birmingham Steel
			Cascade Steel Rolling Mills
			Connecticut Steel Corp
			Co-Steel Raritan
			GS Industries
			Keystone Consolidated Industries
			North Star Steel Texas
			Nucor Steel-Nebraska (a division of Nucor Corp)
			Republic Technologies International
			Rocky Mountain Steel Mills
A–301–602	731–TA–329	Fresh Cut Flowers/Colombia	Burdette Coward
			California Floral Council
			Floral Trade Council
			Florida Flower Association
			Gold Coast Uanko Nursery
			Hollandia Wholesale Florist
			Manatee Fruit
			Monterey Flower Farms
			Pajaro Valley Greenhouses
			Topstar Nursery
A–307–803	731–TA–519	Gray Portland Cement and Clinker/Venezuela	Florida Crushed Stone
			Southdown
			Tarmac America
A–307–805	731–TA–537	Circular Welded Nonalloy Steel Pipe/Venezuela	Allied Tube & Conduit
			American Tube
			Bull Moose Tube
			Century Tube
			CSI Tubular Products
			Cyclops
			Laclede Steel
			LTV Tubular Products
			Maruichi American
			Sharon Tube
			USX
			Western Tube & Conduit
			Wheatland Tube
A–307–807	731–TA–570	Ferrosilicon/Venezuela	AIMCOR

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Alabama Silicon American Alloys Globe Metallurgical Oil, Chemical and Atomic Workers (Local 389) Silicon Metaltech United Autoworkers of America (Local 523) United Steelworkers of America (Locals 2528, 3081, 5171 and 12646)
A–307–820	731–TA–931	Silicomanganese/Venezuela	Eramet Marietta Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5–0639
A–331–602	731–TA–331	Fresh Cut Flowers/Ecuador	Burdette Coward California Floral Council Floral Trade Council Florida Flower Association Gold Coast Uanko Nursery Hollandia Wholesale Florist Manatee Fruit Monterey Flower Farms Topstar Nursery
A–337–803	731–TA–768	Fresh Atlantic Salmon/Chile	Atlantic Salmon of Maine Cooke Aquaculture US DE Salmon Global Aqua USA Island Aquaculture Maine Coast Nordic Scan Am Fish Farms Treats Island Fisheries Trumpet Island Salmon Farm
A–337–804	731–TA–776	Preserved Mushrooms/Chile	LK Bowman Modern Mushroom Farms Monterey Mushrooms Mount Laurel Canning Mushroom Canning Southwood Farms Sunny Dell Foods United Canning
A–337–806	731–TA–948	Individually Quick Frozen Red Raspberries/Chile	A&A Berry Farms Bahler Farms Bear Creek Farms David Burns Columbia Farms Columbia Fruit George Culp Dobbins Berry Farm Enfield Firestone Packing George Hoffman Farms Heckel Farms Wendell Kreder Curt Maberry Maberry Packing Mike & Jean's Nguyen Berry Farms Nick's Acres North Fork Parson Berry Farm Pickin 'N' Pluckin Postage Stamp Farm Rader RainSweet Scenic Fruit Silverstar Farms Tim Straub Thoeny Farms Townsend Tsugawa Farms Updike Berry Farms Van Laeken Farms
A–351–503	731–TA–262	Iron Construction Castings/Brazil	Alhambra Foundry Allegheny Foundry Bingham & Taylor Campbell Foundry

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Charlotte Pipe & Foundry
			Deeter Foundry
			East Jordan Foundry
			Le Baron Foundry
			Municipal Castings
			Neenah Foundry
			Opelika Foundry
			Pinkerton Foundry
			Tyler Pipe
			US Foundry & Manufacturing
			Vulcan Foundry
A–351–505	731–TA–278	Malleable Cast Iron Pipe Fittings/Brazil	Grinnell
			Stanley G Flagg
			Stockham Valves & Fittings
			U–Brand
			Ward Manufacturing
A–351–602	731–TA–308	Carbon Steel Butt-Weld Pipe Fittings/Brazil	Ladish
			Mills Iron Works
			Steel Forgings
			Tube Forgings of America
			Weldbend
A–351–603	731–TA–311	Brass Sheet and Strip/Brazil	Allied Industrial Workers of America
			American Brass
			Bridgeport Brass
			Chase Brass & Copper
			Hussey Copper
			International Association of Machinists & Aerospace Workers
			Mechanics Educational Society of America (Local 56)
			The Miller Company
			Olin
			Revere Copper Products
			United Steelworkers of America
A–351–605	731–TA–326	Frozen Concentrated Orange Juice/Brazil	Alcoma Packing
			B&W Canning
			Berry Citrus Products
			Caulkins Indiantown Citrus
			Citrus Belle
			Citrus World
			Florida Citrus Mutual
A–351–804	731–TA–439	Industrial Nitrocellulose/Brazil	Hercules
A–351–806	731–TA–471	Silicon Metal/Brazil	American Alloys
			Globe Metallurgical
			International Union of Electronics, Electrical, Machine and Furniture Workers (Local 693)
			Oil, Chemical and Atomic Workers (Local 389)
			Silicon Metaltech
			SiMETCO
			Textile Processors, Service Trades, Health Care Professional and Technical Employees (Local 60)
			United Steelworkers of America (Locals 5171, 8538 and 12646)
A–351–809	731–TA–532	Circular Welded Nonalloy Steel Pipe/Brazil	Allied Tube & Conduit
			American Tube
			Bull Moose Tube
			Century Tube
			CSI Tubular Products
			Cyclops
			Laclede Steel
			LTV Tubular Products
			Maruichi American
			Sharon Tube
			USX
			Western Tube & Conduit
			Wheatland Tube
A–351–817	731–TA–574	Cut-to-Length Carbon Steel Plate/Brazil	Bethlehem Steel
			California Steel Industries
			CitiSteel USA Inc
			Geneva Steel
			Gulf States Steel
			Inland Steel Industries
			Lukens Steel

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A–351–819	731–TA–636	Stainless Steel Wire Rod/Brazil	AL Tech Specialty Steel Armco Steel Carpenter Technology Republic Engineered Steels Talley Metals Technology United Steelworkers of America
A–351–820	731–TA–641	Ferrosilicon/Brazil	AIMCOR Alabama Silicon American Alloys Globe Metallurgical Oil, Chemical and Atomic Workers (Local 389) Silicon Metaltech United Autoworkers of America (Local 523) United Steelworkers of America (Locals 2528, 3081, 5171 and 12646)
A–351–824	731–TA–671	Silicomanganese/Brazil	Elkem Metals Oil, Chemical and Atomic Workers (Local 3–639)
A–351–825	731–TA–678	Stainless Steel Bar/Brazil	AL Tech Specialty Steel Carpenter Technology Crucible Specialty Metals Electralloy Republic Engineered Steels Slater Steels Talley Metals Technology United Steelworkers of America
A–351–826	731–TA–708	Seamless Pipe/Brazil	Koppel Steel Quanex Timken United States Steel
A–351–828	731–TA–806	Hot-Rolled Carbon Steel Flat Products/Brazil	Acme Steel Bethlehem Steel California Steel Industries Gallatin Steel Geneva Steel Gulf States Steel Independent Steelworkers IPSCO Ispat/Inland LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Weirton Steel Wheeling-Pittsburgh Steel Corp
A–351–832	731–TA–953	Carbon and Certain Alloy Steel Wire Rod/Brazil	AmeriSteel Birmingham Steel Cascade Steel Rolling Mills Connecticut Steel Corp Co-Steel Raritan GS Industries Keystone Consolidated Industries North Star Steel Texas Nucor Steel-Nebraska (a division of Nucor Corp) Republic Technologies International Rocky Mountain Steel Mills
A–351–837	731–TA–1024 ...	Prestressed Concrete Steel Wire Strand/Brazil	American Spring Wire Corp Insteel Wire Products Co Sivaco Georgia LLC Strand Tech Martin Inc Sumiden Wire Products Corp
A–351–840	731–TA–1089 ...	Certain Orange Juice/Brazil	A Duda & Sons Inc Alico Inc

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			John Barnelt Ben Hill Griffin Inc Bliss Citrus BTS A Florida General Partnership Cain Groves California Citrus Mutual Cedar Haven Inc Citrus World Inc Clonts Groves Inc Davis Enterprises Inc D Edwards Dickinson Evans Properties Inc Florida Citrus Commission Florida Citrus Mutual Florida Farm Bureau Federation Florida Fruit & Vegetable Association Florida State of Department of Citrus Flying V Inc GBS Groves Inc Graves Brothers Co H&S Groves Hartwell Groves Inc Holly Hill Fruit Products Co Jack Melton Family Inc K–Bob Inc L Dicks Inc Lake Pickett Partnership Inc Lamb Revocable Trust Gerilyn Rebecca S Lamb Trustee Lykes Bros Inc Martin J McKenna Orange & Sons Inc Osgood Groves William W Parshall PH Freeman & Sons Pierie Grove Raymond & Melissa Pierie Roper Growers Cooperative Royal Brothers Groves Seminole Tribe of Florida Inc Silverman Groves/Rilla Cooper Smoak Groves Inc Sorrells Groves Inc Southern Gardens Groves Corp Southern Gardens Processing Corp Southern Groves Citrus Sun Ag Inc Sunkist Growers Inc Texas Citrus Exchange Texas Citrus Mutual Texas Produce Association Travis Wise Management Inc Uncle Matt's Fresh Inc Varn Citrus Growers Inc
A–357–007	731–TA–157	Carbon Steel Wire Rod/Argentina	Atlantic Steel Continental Steel Georgetown Steel North Star Steel Raritan River Steel
A–357–405	731–TA–208	Barbed Wire and Barbless Wire Strand/Argentina ...	CF&I Steel Davis Walker Forbes Steel & Wire Oklahoma Steel Wire
A–357–802	731–TA–409	Light-Walled Rectangular Tube/Argentina	Bull Moose Tube Hannibal Industries Harris Tube Maruichi American Searing Industries Southwestern Pipe Western Tube & Conduit
A–357–804	731–TA–470	Silicon Metal/Argentina	American Alloys Elkem Metals Globe Metallurgical

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			International Union of Electronics, Electrical, Machine and Furniture Workers (Local 693) Oil, Chemical and Atomic Workers (Local 389) Silicon Metaltech SiMETCO SKW Alloys Textile Processors, Service Trades, Health Care Professional and Technical Employees (Local 60) United Steelworkers of America (Locals 5171, 8538 and 12646)
A–357–809	731–TA–707	Seamless Pipe/Argentina	Koppel Steel Quanex Timken United States Steel
A–357–810	731–TA–711	Oil Country Tubular Goods/Argentina	IPSCO Koppel Steel Lone Star Steel Maverick Tube Newport Steel North Star Steel US Steel USS/Kobe
A–357–812	731–TA–892	Honey/Argentina	AH Meyer & Sons Adee Honey Farms Althoff Apiaries American Beekeeping Federation American Honey Producers Association Anderson Apiaries Arroyo Apiaries Artesian Honey Producers B Weaver Apiaries Bailey Enterprises Barkman Honey Basler Honey Apiary Beals Honey Bears Paw Apiaries Beaverhead Honey Bee Biz Bee Haven Honey Belliston Brothers Apiaries Big Sky Honey Bill Rhodes Honey Richard E Blake Curt Bronnenbery Brown's Honey Farms Brumley's Bees Buhmann Apiaries Carys Honey Farms Chaparrel Honey Charles Apiaries Mitchell Charles Collins Honey Conor Apiaries Coy's Honey Farm Dave Nelson Apiaries Delta Bee Eisele's Pollination & Honey Ellingsoa's Elliott Curtis & Sons Charles L Emmons, Sr Gause Honey Gene Brandi Apiaries Griffith Honey Haff Apiaries Hamilton Bee Farms Hamilton Honey Happie Bee Harvest Honey Harvey's Honey Hiatt Honey Hoffman Honey Hollman Apiaries Honey House

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Honeybee Apiaries Gary M Honl Rand William Honl and Sydney Jo Honl James R & Joann Smith Trust Jaynes Bee Products Johnston Honey Farms Larry Johnston Ke-An Honey Kent Honeybees Lake-Indianhead Honey Farms Lamb's Honey Farm Las Flores Apiaries Mackrill Honey Farms & Sales Raymond Marquette Mason & Sons Honey McCoy's Sunny South Apiaries Merrimack Valley Apiaries & Evergreen Honey Met 2 Honey Farm Missouri River Honey Mitchell Brothers Honey Monda Honey Farm Montana Dakota Honey Northern Bloom Honey Noye's Apiaries Oakes Honey Oakley Honey Farms Old Mill Apiaries Opp Honey Oro Dulce Peterson's "Naturally Sweet" Honey Potoczak Bee Farms Price Apiaries Pure Sweet Honey Farms Robertson Pollination Service Robson Honey William Robson Rosedale Apiaries Ryan Apiaries Schmidt Honey Farms Simpson Apiaries Sioux Honey Association Smoot Honey Solby Honey Stahlman Apiaries Steve E Parks Apiaries Stroope Bee & Honey T&D Honey Bee Talbott's Honey Terry Apiaries Thompson Apiaries Triple A Farm Tropical Blossom Honey Tubbs Apiaries Venable Wholesale Walter L Wilson Buzz 76 Apiaries Wiebersiek Honey Farms Wilmer Farms Brent J Woodworth Wooten's Golden Queens Yaddof Apiaries
A–357–814	731–TA–898	Hot-Rolled Steel Products/Argentina	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Wheeling-Pittsburgh Steel Corp
A–401–040	AA1921–114	Stainless Steel Plate/Sweden	Jessop Steel
A–401–601	731–TA–316	Brass Sheet and Strip/Sweden	Allied Industrial Workers of America
			American Brass
			Bridgeport Brass
			Chase Brass & Copper
			Hussey Copper
			International Association of Machinists & Aerospace Workers
			Mechanics Educational Society of America (Local 56)
			The Miller Company
			Olin
			Revere Copper Products
			United Steelworkers of America
A–401–603	731–TA–354	Stainless Steel Hollow Products/Sweden	AL Tech Specialty Steel
			Allegheny Ludlum Steel
			ARMCO
			Carpenter Technology
			Crucible Materials
			Damacus Tubular Products
			Specialty Tubing Group
A–401–801	731–TA–397–A	Ball Bearings/Sweden	Barden Corp
			Emerson Power Transmission
			Kubar Bearings
			MPB
			Rollway Bearings
			Torrington
A–401–801	731–TA–397–B	Cylindrical Roller Bearings/Sweden	Barden Corp
			Emerson Power Transmission
			MPB
			Rollway Bearings
			Torrington
A–401–805	731–TA–586	Cut-to-Length Carbon Steel Plate/Sweden	Bethlehem Steel
			California Steel Industries
			CitiSteel USA Inc
			Geneva Steel
			Gulf States Steel
			Inland Steel Industries
			Lukens Steel
			National Steel
			Nextech
			Sharon Steel
			Theis Precision Steel
			Thompson Steel
			US Steel
			United Steelworkers of America
A–401–806	731–TA–774	Stainless Steel Wire Rod/Sweden	AL Tech Specialty Steel
			Carpenter Technology
			Republic Engineered Steels
			Talley Metals Technology
			United Steelworkers of America
A–401–808	731–TA–1087	Purified Carboxymethylcellulose/Sweden	Aqualon Co a Division of Hercules Inc
A–403–801	731–TA–454	Fresh and Chilled Atlantic Salmon/Norway	Heritage Salmon
			The Coalition for Fair Atlantic Salmon Trade
A–405–802	731–TA–576	Cut-to-Length Carbon Steel Plate/Finland	Bethlehem Steel
			California Steel Industries
			CitiSteel USA Inc
			Geneva Steel
			Gulf States Steel
			Inland Steel Industries
			Lukens Steel
			National Steel
			Nextech
			Sharon Steel
			Theis Precision Steel
			Thompson Steel
			US Steel
			United Steelworkers of America
A–405–803	731–TA–1084	Purified Carboxymethylcellulose/Finland	Aqualon Co a Division of Hercules Inc
A–412–801	731–TA–399–A	Ball Bearings/United Kingdom	Barden Corp
			Emerson Power Transmission
			Kubar Bearings

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			McGill Manufacturing Co
			MPB
			Rexnord Inc
			Rollway Bearings
			Torrington
A–412–801	731–TA–399–B	Cylindrical Roller Bearings/United Kingdom	Barden Corp
			Emerson Power Transmission
			MPB
			Rollway Bearings
			Torrington
A–412–803	731–TA–443	Industrial Nitrocellulose/United Kingdom	Hercules
A–412–805	731–TA–468	Sodium Thiosulfate/United Kingdom	Calabrian
A–412–814	731–TA–587	Cut-to-Length Carbon Steel Plate/United Kingdom ..	Bethlehem Steel
			California Steel Industries
			CitiSteel USA Inc
			Geneva Steel
			Gulf States Steel
			Inland Steel Industries
			Lukens Steel
			National Steel
			Nextech
			Sharon Steel
			Theis Precision Steel
			Thompson Steel
			US Steel
			United Steelworkers of America
A–412–818	731–TA–804	Stainless Steel Sheet and Strip/United Kingdom	Allegheny Ludlum
			Armco Steel
			Bethlehem Steel
			Butler Armco Independent Union
			Carpenter Technology Corp
			J&L Specialty Steel
			North American Stainless
			United Steelworkers of America
			Zanesville Armco Independent Organization
A–412–822	731–TA–918	Stainless Steel Bar/United Kingdom	Carpenter Technology
			Crucible Specialty Metals
			Electralloy
			Empire Specialty Steel
			Republic Technologies International
			Slater Steels
			United Steelworkers of America
A–421–701	731–TA–380	Brass Sheet and Strip/Netherlands	Allied Industrial Workers of America
			American Brass
			Bridgeport Brass
			Chase Brass & Copper
			Hussey Copper
			International Association of Machinists & Aerospace Workers
			Mechanics Educational Society of America (Local 56)
			The Miller Company
			North Coast Brass & Copper
			Olin
			Pegg Metals
			Revere Copper Products
			United Steelworkers of America
A–421–804	731–TA–608	Cold-Rolled Carbon Steel Flat Products/Netherlands	Armco Steel
			Bethlehem Steel
			California Steel Industries
			Gulf States Steel
			Inland Steel Industries
			LTV Steel
			National Steel
			Nextech
			Rouge Steel Co
			Sharon Steel
			Theis Precision Steel
			Thompson Steel
			US Steel
			United Steelworkers of America
			WCI Steel
			Weirton Steel

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–421–805	731–TA–652	Aramid Fiber/Netherlands	E I du Pont de Nemours
A–421–807	731–TA–903	Hot-Rolled Steel Products/Netherlands	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A–421–811	731–TA–1086	Purified Carboxymethylcellulose/Netherlands	Aqualon Co a Division of Hercules Inc
A–423–077	AA1921–198	Sugar/Belgium	Florida Sugar Marketing and Terminal Association
A–423–602	731–TA–365	Industrial Phosphoric Acid/Belgium	Albright & Wilson FMC Hydrite Chemical Monsanto Stauffer Chemical
A–423–805	731–TA–573	Cut-to-Length Carbon Steel Plate/Belgium	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A–423–808	731–TA–788	Stainless Steel Plate in Coils/Belgium	Allegheny Ludlum Armco Steel Lukens Steel North American Stainless United Steelworkers of America
A–427–001	731–TA–44	Sorbitol/France	Lonza Pfizer
A–427–009	731–TA–96	Industrial Nitrocellulose/France	Hercules
A–427–078	AA1921–199	Sugar/France	Florida Sugar Marketing and Terminal Association
A–427–098	731–TA–25	Anhydrous Sodium Metasilicate/France	PQ
A–427–602	731–TA–313	Brass Sheet and Strip/France	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper Hussey Copper International Association of Machinists & Aerospace Workers Mechanics Educational Society of America (Local 56) The Miller Company Olin Revere Copper Products United Steelworkers of America
A–427–801	731–TA–392–A	Ball Bearings/France	Barden Corp Emerson Power Transmission Kubar Bearings McGill Manufacturing Co MPB Rexnord Inc Rollway Bearings Torrington
A–427–801	731–TA–392–B	Cylindrical Roller Bearings/France	Barden Corp Emerson Power Transmission MPB Rollway Bearings Torrington
A–427–801	731–TA–392–C	Spherical Plain Bearings/France	Barden Corp

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Emerson Power Transmission
			Kubar Bearings
			McGill Manufacturing Co
			Rexnord Inc
			Rollway Bearings
			Torrington
A–427–804	731–TA–553	Hot-Rolled Lead and Bismuth Carbon Steel Products/France.	Bethlehem Steel
			Inland Steel Industries
			USS/Kobe Steel
A–427–808	731–TA–615	Corrosion-Resistant Carbon Steel Flat Products/France.	Armco Steel
			Bethlehem Steel
			California Steel Industries
			Geneva Steel
			Gulf States Steel
			Inland Steel Industries
			LTV Steel
			Lukens Steel
			National Steel
			Nextech
			Rouge Steel Co
			Sharon Steel
			Theis Precision Steel
			Thompson Steel
			US Steel
			United Steelworkers of America
			WCI Steel
			Weirton Steel
A–427–811	731–TA–637	Stainless Steel Wire Rod/France	AL Tech Specialty Steel
			Armco Steel
			Carpenter Technology
			Republic Engineered Steels
			Talley Metals Technology
			United Steelworkers of America
A–427–814	731–TA–797	Stainless Steel Sheet and Strip/France	Allegheny Ludlum
			Armco Steel
			Bethlehem Steel
			Butler Armco Independent Union
			Carpenter Technology Corp
			North American Stainless
			United Steelworkers of America
			Zanesville Armco Independent Organization
A–427–816	731–TA–816	Cut-to-Length Carbon Steel Plate/France	Bethlehem Steel
			Geneva Steel
			IPSCO Steel
			National Steel
			US Steel
			United Steelworkers of America
A–427–818	731–TA–909	Low Enriched Uranium/France	United States Enrichment Corp
			USEC Inc
A–427–820	731–TA–913	Stainless Steel Bar/France	Carpenter Technology
			Crucible Specialty Metals
			Electralloy
			Empire Specialty Steel
			Republic Technologies International
			Slater Steels
			United Steelworkers of America
A–428–082	AA1921–200	Sugar/Germany	Florida Sugar Marketing and Terminal Association
A–428–602	731–TA–317	Brass Sheet and Strip/Germany	Allied Industrial Workers of America
			American Brass
			Bridgeport Brass
			Chase Brass & Copper
			Hussey Copper
			International Association of Machinists & Aerospace Workers
			Mechanics Educational Society of America (Local 56)
			The Miller Company
			Olin
			Revere Copper Products
			United Steelworkers of America
A–428–801	731–TA–391–A	Ball Bearings/Germany	Barden Corp

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Emerson Power Transmission Kubar Bearings McGill Manufacturing Co MPB Rexnord Inc Rollway Bearings Torrington
A–428–801	731–TA–391–B	Cylindrical Roller Bearings/Germany	Barden Corp Emerson Power Transmission MPB Rollway Bearings Torrington
A–428–801	731–TA–391–C	Spherical Plain Bearings/Germany	Barden Corp Emerson Power Transmission Rollway Bearings Torrington
A–428–802	731–TA–419	Industrial Belts/Germany	The Gates Rubber Company The Goodyear Tire and Rubber Company
A–428–803	731–TA–444	Industrial Nitrocellulose/Germany	Hercules
A–428–807	731–TA–465	Sodium Thiosulfate/Germany	Calabrian
A–428–814	731–TA–604	Cold-Rolled Carbon Steel Flat Products/Germany ...	Armco Steel Bethlehem Steel California Steel Industries Gulf States Steel Inland Steel Industries LTV Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
A–428–815	731–TA–616	Corrosion-Resistant Carbon Steel Flat Products/ Germany.	Armco Steel Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries LTV Steel Lukens Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
A–428–816	731–TA–578	Cut-to-Length Carbon Steel Plate/Germany	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A–428–820	731–TA–709	Seamless Pipe/Germany	Koppel Steel Quanex Timken United States Steel

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–428–821	731–TA–736	Large Newspaper Printing Presses/Germany	Rockwell Graphics Systems
A–428–825	731–TA–798	Stainless Steel Sheet and Strip/Germany	Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp J&L Specialty Steel North American Stainless United Steelworkers of America Zanesville Armco Independent Organization
A–428–830	731–TA–914	Stainless Steel Bar/Germany	Carpenter Technology Crucible Specialty Metals Electralloy Empire Specialty Steel Republic Technologies International Slater Steels United Steelworkers of America
A–437–601	731–TA–341	Tapered Roller Bearings/Hungary	L&S Bearing Timken Torrington
A–437–804	731–TA–426	Sulfanilic Acid/Hungary	Nation Ford Chemical
A–447–801	731–TA–340C	Solid Urea/Estonia	Agrico Chemical American Cyanamid CF Industries First Mississippi Mississippi Chemical Terra International WR Grace
A–449–804	731–TA–878	Steel Concrete Reinforcing Bar/Latvia	AB Steel Mill Inc AmeriSteel Auburn Steel Birmingham Steel Border Steel Cascade Steel Rolling Mills Inc CMC Steel Group Co-Steel Inc Marion Steel North Star Steel Co Nucor Steel Rebar Trade Action Coalition Riverview Steel Sheffield Steel TAMCO TXI–Chaparral Steel Co
A–451–801	731–TA–340D	Solid Urea/Lithuania	Agrico Chemical American Cyanamid CF Industries First Mississippi Mississippi Chemical Terra International WR Grace
A–455–802	731–TA–583	Cut-to-Length Carbon Steel Plate/Poland	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A–455–803	731–TA–880	Steel Concrete Reinforcing Bar/Poland	AB Steel Mill Inc AmeriSteel Auburn Steel Birmingham Steel Border Steel Cascade Steel Rolling Mills Inc CMC Steel Group Co-Steel Inc

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Marion Steel
			North Star Steel Co
			Nucor Steel
			Rebar Trade Action Coalition
			Riverview Steel
			Sheffield Steel
			TAMCO
			TXI–Chaparral Steel Co
A–469–007	731–TA–126	Potassium Permanganate/Spain	Carus Chemical
A–469–803	731–TA–585	Cut-to-Length Carbon Steel Plate/Spain	Bethlehem Steel
			California Steel Industries
			Geneva Steel
			Gulf States Steel
			Inland Steel Industries
			Lukens Steel
			National Steel
			Nextech
			Sharon Steel
			Theis Precision Steel
			Thompson Steel
			US Steel
			United Steelworkers of America
A–469–805	731–TA–682	Stainless Steel Bar/Spain	AL Tech Specialty Steel
			Carpenter Technology
			Crucible Specialty Metals
			Electralloy
			Republic Engineered Steels
			Slater Steels
			Talley Metals Technology
			United Steelworkers of America
A–469–807	731–TA–773	Stainless Steel Wire Rod/Spain	AL Tech Specialty Steel
			Carpenter Technology
			Republic Engineered Steels
			Talley Metals Technology
			United Steelworkers of America
A–469–810	731–TA–890	Stainless Steel Angle/Spain	Slater Steels
			United Steelworkers of America
A–469–814	731–TA–1083	Chlorinated Isocyanurates/Spain	BioLab Inc
			Clearon Corp
			Occidental Chemical Corp
A–471–806	731–TA–427	Sulfanilic Acid/Portugal	Nation Ford Chemical
A–475–059	AA1921–167	Pressure-Sensitive Plastic Tape/Italy	Minnesota Mining & Manufacturing
A–475–601	731–TA–314	Brass Sheet and Strip/Italy	Allied Industrial Workers of America
			American Brass
			Bridgeport Brass
			Chase Brass & Copper
			Hussey Copper
			International Association of Machinists & Aerospace Workers
			Mechanics Educational Society of America (Local 56)
			The Miller Company
			Olin
			Revere Copper Products
			United Steelworkers of America
A–475–703	731–TA–385	Granular Polytetrafluoroethylene/Italy	E I du Pont de Nemours
			ICI Americas
A–475–801	731–TA–393–A	Ball Bearings/Italy	Barden Corp
			Emerson Power Transmission
			Kubar Bearings
			McGill Manufacturing Co
			MPB
			Rexnord Inc
			Rollway Bearings
			Torrington
A–475–801	731–TA–393–B	Cylindrical Roller Bearings/Italy	Barden Corp
			Emerson Power Transmission
			MPB
			Rollway Bearings
			Torrington
A–475–802	731–TA–413	Industrial Belts/Italy	The Gates Rubber Company
			The Goodyear Tire and Rubber Company
A–475–811	731–TA–659	Grain-Oriented Silicon Electrical Steel/Italy	Allegheny Ludlum

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Armco Steel
			Butler Armco Independent Union
			United Steelworkers of America
			Zanesville Armco Independent Union
A–475–814	731–TA–710	Seamless Pipe/Italy	Koppel Steel
			Quanex
			Timken
			United States Steel
A–475–816	731–TA–713	Oil Country Tubular Goods/Italy	Bellville Tube
			IPSCO
			Koppel Steel
			Lone Star Steel
			Maverick Tube
			Newport Steel
			North Star Steel
			US Steel
			USS/Kobe
A–475–818	731–TA–734	Pasta/Italy	A Zerega's Sons
			American Italian Pasta
			Borden
			D Merlino & Sons
			Dakota Growers Pasta
			Foulds
			Gilster-Mary Lee
			Gooch Foods
			Hershey Foods
			LaRinascente Macaroni Co
			Pasta USA
			Philadelphia Macaroni
			ST Specialty Foods
A–475–820	731–TA–770	Stainless Steel Wire Rod/Italy	AL Tech Specialty Steel
			Carpenter Technology
			Republic Engineered Steels
			Talley Metals Technology
			United Steelworkers of America
A–475–822	731–TA–790	Stainless Steel Plate in Coils/Italy	Allegheny Ludlum
			Armco Steel
			J&L Specialty Steel
			Lukens Steel
			North American Stainless
			United Steelworkers of America
A–475–824	731–TA–799	Stainless Steel Sheet and Strip/Italy	Allegheny Ludlum
			Armco Steel
			Bethlehem Steel
			Butler Armco Independent Union
			Carpenter Technology Corp
			J&L Specialty Steel
			North American Stainless
			United Steelworkers of America
			Zanesville Armco Independent Organization
A–475–826	731–TA–819	Cut-to-Length Carbon Steel Plate/Italy	Bethlehem Steel
			CitiSteel USA Inc
			Geneva Steel
			Gulf States Steel
			IPSCO Steel
			National Steel
			US Steel
			United Steelworkers of America
A–475–828	731–TA–865	Stainless Steel Butt-Weld Pipe Fittings/Italy	Flo-Mac Inc
			Gerlin
			Markovitz Enterprises
			Shaw Alloy Piping Products
			Taylor Forge Stainless
A–475–829	731–TA–915	Stainless Steel Bar/Italy	Carpenter Technology
			Crucible Specialty Metals
			Electralloy
			Empire Specialty Steel
			Republic Technologies International
			Slater Steels
			United Steelworkers of America
A–479–801	731–TA–445	Industrial Nitrocellulose/Yugoslavia	Hercules
A–484–801	731–TA–406	Electrolytic Manganese Dioxide/Greece	Chemetals
			Kerr-McGee

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Rayovac
A–485–601	731–TA–339	Solid Urea/Romania	Agrico Chemical
			American Cyanamid
			CF Industries
			First Mississippi
			Mississippi Chemical
			Terra International
			WR Grace
A–485–602	731–TA–345	Tapered Roller Bearings/Romania	L&S Bearing
			Timken
			Torrington
A–485–801	731–TA–395	Ball Bearings/Romania	Barden Corp
			Emerson Power Transmission
			Kubar Bearings
			MPB
			Rollway Bearings
			Torrington
A–485–803	731–TA–584	Cut-to-Length Carbon Steel Plate/Romania	Bethlehem Steel
			California Steel Industries
			CitiSteel USA Inc
			Geneva Steel
			Gulf States Steel
			Inland Steel Industries
			Lukens Steel
			National Steel
			Nextech
			Sharon Steel
			Theis Precision Steel
			Thompson Steel
			US Steel
			United Steelworkers of America
A–485–805	731–TA–849	Small-Diameter Carbon Steel Seamless Pipe/Romania.	Koppel Steel
			North Star Steel
			Sharon Tube
			Timken
			US Steel
			United Steelworkers of America
			USS/Kobe
			Vision Metals' Gulf States Tube
A–485–806	731–TA–904	Hot-Rolled Steel Products/Romania	Bethlehem Steel
			Gallatin Steel
			Independent Steelworkers
			IPSCO
			LTV Steel
			National Steel
			Nucor
			Rouge Steel Co
			Steel Dynamics
			US Steel
			United Steelworkers of America
			WCI Steel Inc
			Weirton Steel
			Wheeling-Pittsburgh Steel Corp
A–489–501	731–TA–273	Welded Carbon Steel Pipe and Tube/Turkey	Allied Tube & Conduit
			American Tube
			Bernard Epps
			Bock Industries
			Bull Moose Tube
			Central Steel Tube
			Century Tube
			Copperweld Tubing
			Cyclops
			Hughes Steel & Tube
			Kaiser Steel
			Laclede Steel
			Maruichi American
			Maverick Tube
			Merchant Metals
			Phoenix Steel
			Pittsburgh Tube
			Quanex
			Sharon Tube

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Southwestern Pipe
			UNR–Leavitt
			Welded Tube
			Western Tube & Conduit
			Wheatland Tube
A–489–602	731–TA–364	Aspirin/Turkey	Dow Chemical
			Monsanto
			Norwich-Eaton
A–489–805	731–TA–735	Pasta/Turkey	A Zerega's Sons
			American Italian Pasta
			Borden
			D Merlino & Sons
			Dakota Growers Pasta
			Foulds
			Gilster-Mary Lee
			Gooch Foods
			Hershey Foods
			LaRinascente Macaroni Co
			Pasta USA
			Philadelphia Macaroni
			ST Specialty Foods
A–489–807	731–TA–745	Steel Concrete Reinforcing Bar/Turkey	AmeriSteel
			Auburn Steel
			Birmingham Steel
			Commercial Metals
			Marion Steel
			New Jersey Steel
A–507–502	731–TA–287	Raw In-Shell Pistachios/Iran	Blackwell Land
			California Pistachio Orchard
			Keenan Farms
			Kern Pistachio Hulling & Drying
			Los Ranchos de Poco Pedro
			Pistachio Producers of California
			TM Duche Nut
A–508–604	731–TA–366	Industrial Phosphoric Acid/Israel	Albright & Wilson
			FMC
			Hydrite Chemical
			Monsanto
			Stauffer Chemical
A–533–502	731–TA–271	Welded Carbon Steel Pipe and Tube/India	Allied Tube & Conduit
			American Tube
			Bernard Epps
			Bock Industries
			Bull Moose Tube
			Central Steel Tube
			Century Tube
			Copperweld Tubing
			Cyclops
			Hughes Steel & Tube
			Kaiser Steel
			Laclede Steel
			Maruichi American
			Maverick Tube
			Merchant Metals
			Phoenix Steel
			Pittsburgh Tube
			Quanex
			Sharon Tube
			Southwestern Pipe
			UNR–Leavitt
			Welded Tube
			Western Tube & Conduit
			Wheatland Tube
A–533–806	731–TA–561	Sulfanilic Acid/India	R–M Industries
A–533–808	731–TA–638	Stainless Steel Wire Rod/India	AL Tech Specialty Steel
			Armco Steel
			Carpenter Technology
			Republic Engineered Steels
			Talley Metals Technology
			United Steelworkers of America
A–533–809	731–TA–639	Forged Stainless Steel Flanges/India	Gerlin
			Ideal Forging
			Maass Flange

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–533–810	731–TA–679	Stainless Steel Bar/India	Markovitz Enterprises AL Tech Specialty Steel Carpenter Technology Crucible Specialty Metals Electralloy Republic Engineered Steels Slater Steels Talley Metals Technology United Steelworkers of America
A–533–813	731–TA–778	Preserved Mushrooms/India	LK Bowman Modern Mushroom Farms Monterey Mushrooms Mount Laurel Canning Mushroom Canning Southwood Farms Sunny Dell Foods United Canning
A–533–817	731–TA–817	Cut-to-Length Carbon Steel Plate/India	Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel IPSCO Steel National Steel Tuscaloosa Steel US Steel United Steelworkers of America
A–533–820	731–TA–900	Hot-Rolled Steel Products/India	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A–533–823	731–TA–929	Silicomanganese/ndia	Eramet Marietta Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5–0639
A–533–824	731–TA–933	Polyethylene Terephthalate Film, Sheet and Strip (PET Film)/India.	DuPont Teijin Films Mitsubishi Polyester Film LLC SKC America Inc Toray Plastics (America)
A–533–828	731–TA–1025 ...	Prestressed Concrete Steel Wire Strand/India	American Spring Wire Corp Insteel Wire Products Co Sivaco Georgia LLC Strand Tech Martin Inc Sumiden Wire Products Corp
A–533–838	731–TA–1061 ...	Carbazole Violet Pigment 23/India	Allegheny Color Corp Barker Fine Color Inc Clariant Corp Nation Ford Chemical Co Sun Chemical Co
A–533–843	731–TA–1096 ...	Certain Lined Paper School Supplies/India	Fay Paper Products Inc MeadWestvaco Consumer & Office Products Norcom Inc Pacon Corp Roaring Spring Blank Book Co Top Flight Inc United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (USW)
A–538–802	731–TA–514	Cotton Shop Towels/Bangladesh	Milliken
A–549–502	731–TA–252	Welded Carbon Steel Pipe and Tube/Thailand	Allied Tube & Conduit American Tube Bernard Epps Bock Industries

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Bull Moose Tube
			Central Steel Tube
			Century Tube
			Copperweld Tubing
			Cyclops
			Hughes Steel & Tube
			Kaiser Steel
			Laclede Steel
			Maruichi American
			Maverick Tube
			Merchant Metals
			Phoenix Steel
			Pittsburgh Tube
			Quanex
			Sharon Tube
			Southwestern Pipe
			UNR–Leavitt
			Welded Tube
			Western Tube & Conduit
			Wheatland Tube
A–549–601	731–TA–348	Malleable Cast Iron Pipe Fittings/Thailand	Grinnell
			Stanley G Flagg
			Stockham Valves & Fittings
			U–Brand
			Ward Manufacturing
A–549–807	731–TA–521	Carbon Steel Butt-Weld Pipe Fittings/Thailand	Hackney
			Ladish
			Mills Iron Works
			Steel Forgings
			Tube Forgings of America
A–549–812	731–TA–705	Furfuryl Alcohol/Thailand	QO Chemicals
A–549–813	731–TA–706	Canned Pineapple/Thailand	International Longshoreman's and Warehouseman's Union
			Maui Pineapple
A–549–817	731–TA–907	Hot-Rolled Steel Products/Thailand	Bethlehem Steel
			Gallatin Steel
			Independent Steelworkers
			IPSCO
			LTV Steel
			National Steel
			Nucor
			Rouge Steel Co
			Steel Dynamics
			US Steel
			United Steelworkers of America
			WCI Steel Inc
			Weirton Steel
			Wheeling-Pittsburgh Steel Corp
A–549–820	731–TA–1028 ...	Prestressed Concrete Steel Wire Strand/Thailand ...	American Spring Wire Corp
			Insteel Wire Products Co
			Sivaco Georgia LLC
			Strand Tech Martin Inc
			Sumiden Wire Products Corp
A–549–821	731–TA–1045 ...	Polyethylene Retail Carrier Bags/Thailand	Aargus Plastics Inc
			Advance Polybags Inc
			Advance Polybags (Nevada) Inc
			Advance Polybags (Northeast) Inc
			Alpha Industries Inc
			Alpine Plastics Inc
			Ampac Packaging LLC
			API Enterprises Inc
			Command Packaging
			Continental Poly Bags Inc
			Durabag Co Inc
			Europackaging LLC
			Genpak LLC (formerly Continental Superbag LLC)
			Genpak LLC (formerly Strout Plastics)
			Hilex Poly Co LLC
			Inteplast Group Ltd
			PCL Packaging Inc
			Poly-Pak Industries Inc
			Roplast Industries Inc
			Superbag Corp

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Unistar Plastics LLC
			Vanguard Plastics Inc
			VS Plastics LLC
A–552–801	731–TA–1012 ...	Certain Frozen Fish Fillets/Vietnam	America's Catch Inc
			Aquafarms Catfish Inc
			Carolina Classics Catfish Inc
			Catfish Farmers of America
			Consolidated Catfish Companies Inc
			Delta Pride Catfish Inc
			Fish Processors Inc
			Guidry's Catfish Inc
			Haring's Pride Catfish
			Harvest Select Catfish (Alabama Catfish Inc)
			Heartland Catfish Co (TT&W Farm Products Inc)
			Prairie Lands Seafood (Illinois Fish Farmers Cooperative)
			Pride of the Pond
			Pride of the South Catfish Inc
			Prime Line Inc
			Seabrook Seafood Inc
			Seacat (Arkansas Catfish Growers)
			Simmons Farm Raised Catfish Inc
			Southern Pride Catfish LLC
			Verret Fisheries Inc
A–557–805	731–TA–527	Extruded Rubber Thread/Malaysia	Globe Manufacturing
			North American Rubber Thread
A–557–809	731–TA–866	Stainless Steel Butt-Weld Pipe Fittings/Malaysia	Flo-Mac Inc
			Gerlin
			Markovitz Enterprises
			Shaw Alloy Piping Products
			Taylor Forge Stainless
A–557–813	731–TA–1044 ...	Polyethylene Retail Carrier Bags/Malaysia	Aargus Plastics Inc
			Advance Polybags Inc
			Advance Polybags (Nevada) Inc
			Advance Polybags (Northeast) Inc
			Alpha Industries Inc
			Alpine Plastics Inc
			Ampac Packaging LLC
			API Enterprises Inc
			Command Packaging
			Continental Poly Bags Inc
			Durabag Co Inc
			Europackaging LLC
			Genpak LLC (formerly Continental Superbag LLC)
			Genpak LLC (formerly Strout Plastics)
			Hilex Poly Co LLC
			Inteplast Group Ltd
			PCL Packaging Inc
			Poly-Pak Industries Inc
			Roplast Industries Inc
			Superbag Corp
			Unistar Plastics LLC
			Vanguard Plastics Inc
			VS Plastics LLC
A–559–502	731–TA–296	Small Diameter Standard and Rectangular Pipe and Tube/Singapore.	Allied Tube & Conduit
			American Tube
			Bull Moose Tube
			Cyclops
			Hannibal Industries
			Laclede Steel
			Pittsburgh Tube
			Sharon Tube
			Western Tube & Conduit
			Wheatland Tube
A–559–601	731–TA–370	Color Picture Tubes/Singapore	Industrial Union Department, AFL–CIO
			International Association of Machinists & Aerospace Workers
			International Brotherhood of Electrical Workers
			International Union of Electronic, Electrical, Technical, Salaried and Machine Workers
			Philips Electronic Components Group
			United Steelworkers of America

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–559–801	731–TA–396	Ball Bearings/Singapore	Zenith Electronics Barden Corp Emerson Power Transmission Kubar Bearings McGill Manufacturing Co MPB Rexnord Inc Rollway Bearings Torrington
A–559–802	731–TA–415	Industrial Belts/Singapore	The Gates Rubber Company The Goodyear Tire and Rubber Company
A–560–801	731–TA–742	Melamine Institutional Dinnerware/Indonesia	Carlisle Food Service Products Lexington United Plastics Manufacturing
A–560–802	731–TA–779	Preserved Mushrooms/Indonesia	LK Bowman Modern Mushroom Farms Monterey Mushrooms Mount Laurel Canning Mushroom Canning Southwood Farms Sunny Dell Foods United Canning
A–560–803	731–TA–787	Extruded Rubber Thread/Indonesia	North American Rubber Thread
A–560–805	731–TA–818	Cut-to-Length Carbon Steel Plate/Indonesia	Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel IPSCO Steel National Steel Tuscaloosa Steel US Steel United Steelworkers of America
A–560–811	731–TA–875	Steel Concrete Reinforcing Bar/Indonesia	AB Steel Mill Inc AmeriSteel Birmingham Steel Border Steel Cascade Steel Rolling Mills Inc CMC Steel Group Co-Steel Inc Marion Steel North Star Steel Co Nucor Steel Rebar Trade Action Coalition Riverview Steel Sheffield Steel TAMCO TXI–Chaparral Steel Co
A–560–812	731–TA–901	Hot-Rolled Steel Products/Indonesia	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A–560–815	731–TA–957	Carbon and Certain Alloy Steel Wire Rod/Indonesia	AmeriSteel Birmingham Steel Cascade Steel Rolling Mills Connecticut Steel Corp Co-Steel Raritan GS Industries Keystone Consolidated Industries North Star Steel Texas Nucor Steel-Nebraska (a division of Nucor Corp) Republic Technologies International Rocky Mountain Steel Mills
A–560–818	731–TA–1097 ...	Certain Lined Paper School Supplies/Indonesia	Fay Paper Products Inc

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			MeadWestvaco Consumer & Office Products
			Norcom Inc
			Pacon Corp
			Roaring Spring Blank Book Co
			Top Flight Inc
			United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (USW)
A–565–801	731–TA–867	Stainless Steel Butt-Weld Pipe Fittings/Philippines ..	Flo-Mac Inc
			Gerlin
			Markovitz Enterprises
			Shaw Alloy Piping Products
			Taylor Forge Stainless
A–570–001	731–TA–125	Potassium Permanganate/China	Carus Chemical
A–570–002	731–TA–130	Chloropicrin/China	LCP Chemicals & Plastics
			Niklor Chemical
A–570–003	731–TA–103	Cotton Shop Towels/China	Milliken
			Texel Industries
			Wikit
A–570–007	731–TA–149	Barium Chloride/China	Chemical Products
A–570–101	731–TA–101	Greige Polyester Cotton Printcloth/China	Alice Manufacturing
			Clinton Mills
			Dan River
			Greenwood Mills
			Hamrick Mills
			M Lowenstein
			Mayfair Mills
			Mount Vernon Mills
A–570–501	731–TA–244	Natural Bristle Paint Brushes/China	Baltimore Brush
			Bestt Liebco
			Elder & Jenks
			EZ Paintr
			H&G Industries
			Joseph Lieberman & Sons
			Purdy
			Rubberset
			Thomas Paint Applicators
			Wooster Brush
A–570–502	731–TA–265	Iron Construction Castings/China	Alhambra Foundry
			Allegheny Foundry
			Bingham & Taylor
			Campbell Foundry
			Charlotte Pipe & Foundry
			Deeter Foundry
			East Jordan Foundry
			Le Baron Foundry
			Municipal Castings
			Neenah Foundry
			Opelika Foundry
			Pinkerton Foundry
			Tyler Pipe
			US Foundry & Manufacturing
			Vulcan Foundry
A–570–504	731–TA–282	Petroleum Wax Candles/China	The AI Root Company
			Candle Artisans Inc
			Candle-Lite
			Cathedral Candle
			Colonial Candle of Cape Cod
			General Wax & Candle
			Lenox Candles
			Lumi-Lite Candle
			Meuch-Kreuzer Candle
			National Candle Association
			Will & Baumer
			WNS
A–570–506	731–TA–298	Porcelain-on-Steel Cooking Ware/China	General Housewares
A–570–601	731–TA–344	Tapered Roller Bearings/China	L&S Bearing
			Timken
			Torrington
A–570–802	731–TA–441	Industrial Nitrocellulose/China	Hercules
A–570–803	731–TA–457–A	Axes and Adzes/China	Council Tool Co Inc
			Warwood Tool

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Woodings-Verona
A–570–803	731–TA–457–B	Bars and Wedges/China	Council Tool Co Inc
			Warwood Tool
			Woodings-Verona
A–570–803	731–TA–457–C	Hammers and Sledges/China	Council Tool Co Inc
			Warwood Tool
			Woodings-Verona
A–570–803	731–TA–457–D	Picks and Mattocks/China	Council Tool Co Inc
			Warwood Tool
			Woodings-Verona
A–570–804	731–TA–464	Sparklers/China	BJ Alan
			Diamond Sparkler
			Elkton Sparkler
A–570–805	731–TA–466	Sodium Thiosulfate/China	Calabrian
A–570–806	731–TA–472	Silicon Metal/China	American Alloys
			Elkem Metals
			Globe Metallurgical
			International Union of Electronics, Electrical, Machine and Furniture Workers (Local 693)
			Oil, Chemical and Atomic Workers (Local 389)
			Silicon Metaltech
			SiMETCO
			SKW Alloys
			Textile Processors, Service Trades, Health Care Professional and Technical Employees (Local 60)
			United Steelworkers of America (Locals 5171, 8538 and 12646)
A–570–808	731–TA–474	Chrome-Plated Lug Nuts/China	Consolidated International Automotive
			Key Manufacturing
			McGard
A–570–811	731–TA–497	Tungsten Ore Concentrates/China	Curtis Tungsten
			US Tungsten
A–570–814	731–TA–520	Carbon Steel Butt-Weld Pipe Fittings/China	Hackney
			Ladish
			Mills Iron Works
			Steel Forgings
			Tube Forgings of America
A–570–815	731–TA–538	Sulfanilic Acid/China	R–M Industries
A–570–819	731–TA–567	Ferrosilicon/China	AIMCOR
			Alabama Silicon
			American Alloys
			Globe Metallurgical
			Oil, Chemical and Atomic Workers (Local 389)
			Silicon Metaltech
			United Autoworkers of America (Local 523)
			United Steelworkers of America (Locals 2528, 3081, 5171 and 12646)
A–570–822	731–TA–624	Helical Spring Lock Washers/China	Illinois Tool Works
A–570–825	731–TA–653	Sebacic Acid/China	Union Camp
A–570–826	731–TA–663	Paper Clips/China	ACCO USA
			Labelon/Noesting
			TRICO Manufacturing
A–570–827	731–TA–669	Cased Pencils/China	Blackfeet Indian Writing Instrument
			Dixon-Ticonderoga
			Empire Berol
			Faber-Castell
			General Pencil
			JR Moon Pencil
			Musgrave Pen & Pencil
			Panda
			Writing Instrument Manufacturers Association, Pencil Section
A–570–828	731–TA–672	Silicomanganese/China	Elkem Metals
			Oil, Chemical and Atomic Workers (Local 3–639)
A–570–830	731–TA–677	Coumarin/China	Rhone-Poulenc
A–570–831	731–TA–683	Fresh Garlic/China	A&D Christopher Ranch
			Belridge Packing
			Colusa Produce
			Denice & Filice Packing
			El Camino Packing
			The Garlic Company
			Vessey and Company
A–570–832	731–TA–696	Pure Magnesium/China	Dow Chemical

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			International Union of Operating Engineers (Local 564)
			Magnesium Corporation of America
			United Steelworkers of America (Local 8319)
A–570–835	731–TA–703	Furfuryl Alcohol/China	QO Chemicals
A–570–836	731–TA–718	Glycine/China	Chattem
			Hampshire Chemical
A–570–840	731–TA–724	Manganese Metal/China	Elkem Metals
			Kerr-McGee
A–570–842	731–TA–726	Polyvinyl Alcohol/China	Air Products and Chemicals
A–570–844	731–TA–741	Melamine Institutional Dinnerware/China	Carlisle Food Service Products
			Lexington United
			Plastics Manufacturing
A–570–846	731–TA–744	Brake Rotors/China	Brake Parts
			Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers
			Iroquois Tool Systems
			Kelsey Hayes
			Kinetic Parts Manufacturing
			Overseas Auto Parts
			Wagner Brake
A–570–847	731–TA–749	Persulfates/China	FMC
A–570–848	731–TA–752	Crawfish Tail Meat/China	A&S Crawfish
			Acadiana Fisherman's Co-Op
			Arnaudville Seafood
			Atchafalaya Crawfish Processors
			Basin Crawfish Processors
			Bayou Land Seafood
			Becnel's Meat & Seafood
			Bellard's Poultry & Crawfish
			Bonanza Crawfish Farm
			Cajun Seafood Distributors
			Carl's Seafood
			Catahoula Crawfish
			Choplin SFD
			CJ's Seafood & Purged Crawfish
			Clearwater Crawfish
			Crawfish Processors Alliance
			Harvey's Seafood
			Lawtell Crawfish Processors
			Louisiana Premium Seafoods
			Louisiana Seafood
			LT West
			Phillips Seafood
			Prairie Cajun Wholesale Seafood Dist
			Riceland Crawfish
			Schexnider Crawfish
			Seafood International Distributors
			Sylvester's Processors
			Teche Valley Seafood
A–570–849	731–TA–753	Cut-to-Length Carbon Steel Plate/China	Acme Metals Inc
			Bethlehem Steel
			CitiSteel USA Inc
			Geneva Steel
			Gulf States Steel
			Lukens Inc
			National Steel
			US Steel
			United Steelworkers of America
A–570–850	731–TA–757	Collated Roofing Nails/China	Illinois Tool Works
			International Staple and Machines
			Stanley-Bostitch
A–570–851	731–TA–777	Preserved Mushrooms/China	LK Bowman
			Modern Mushroom Farms
			Monterey Mushrooms
			Mount Laurel Canning
			Mushroom Canning
			Southwood Farms
			Sunny Dell Foods
			United Canning
A–570–852	731–TA–814	Creatine Monohydrate/China	Pfanstiehl Laboratories
A–570–853	731–TA–828	Aspirin/China	Rhodia
A–570–855	731–TA–841	Non-Frozen Apple Juice Concentrate/China	Coloma Frozen Foods

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Green Valley Apples of California
			Knouse Foods Coop
			Mason County Fruit Packers Coop
			Tree Top
A–570–856	731–TA–851	Synthetic Indigo/China	Buffalo Color
			United Steelworkers of America
A–570–860	731–TA–874	Steel Concrete Reinforcing Bar/China	AB Steel Mill Inc
			AmeriSteel
			Auburn Steel
			Birmingham Steel
			Border Steel
			Cascade Steel Rolling Mills Inc
			CMC Steel Group
			Co-Steel Inc
			Marion Steel
			North Star Steel Co
			Nucor Steel
			Rebar Trade Action Coalition
			Riverview Steel
			Sheffield Steel
			TAMCO
			TXI–Chaparral Steel Co
A–570–862	731–TA–891	Foundry Coke/China	ABC Coke
			Citizens Gas and Coke Utility
			Erie Coke
			Sloss Industries Corp
			Tonawanda Coke
			United Steelworkers of America
A–570–863	731–TA–893	Honey/China	AH Meyer & Sons
			Adee Honey Farms
			Althoff Apiaries
			American Beekeeping Federation
			American Honey Producers Association
			Anderson Apiaries
			Arroyo Apiaries
			Artesian Honey Producers
			B Weaver Apiaries
			Bailey Enterprises
			Barkman Honey
			Basler Honey Apiary
			Beals Honey
			Bears Paw Apiaries
			Beaverhead Honey
			Bee Biz
			Bee Haven Honey
			Belliston Brothers Apiaries
			Big Sky Honey
			Bill Rhodes Honey
			Richard E Blake
			Curt Bronnenbery
			Brown's Honey Farms
			Brumley's Bees
			Buhmann Apiaries
			Carys Honey Farms
			Chaparrel Honey
			Charles Apiaries
			Mitchell Charles
			Collins Honey
			Conor Apiaries
			Coy's Honey Farm
			Dave Nelson Apiaries
			Delta Bee
			Eisele's Pollination & Honey
			Ellingsoa's
			Elliott Curtis & Sons
			Charles L Emmons, Sr
			Gause Honey
			Gene Brandi Apiaries
			Griffith Honey
			Haff Apiaries
			Hamilton Bee Farms
			Hamilton Honey
			Happie Bee

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Harvest Honey
			Harvey's Honey
			Hiatt Honey
			Hoffman Honey
			Hollman Apiaries
			Honey House
			Honeybee Apiaries
			Gary M Honl
			Rand William Honl and Sydney Jo Honl
			James R & Joann Smith Trust
			Jaynes Bee Products
			Johnston Honey Farms
			Larry Johnston
			Ke-An Honey
			Kent Honeybees
			Lake-Indianhead Honey Farms
			Lamb's Honey Farm
			Las Flores Apiaries
			Mackrill Honey Farms & Sales
			Raymond Marquette
			Mason & Sons Honey
			McCoy's Sunny South Apiaries
			Merrimack Valley Apiaries & Evergreen Honey
			Met 2 Honey Farm
			Missouri River Honey
			Mitchell Brothers Honey
			Monda Honey Farm
			Montana Dakota Honey
			Northern Bloom Honey
			Noye's Apiaries
			Oakes Honey
			Oakley Honey Farms
			Old Mill Apiaries
			Opp Honey
			Oro Dulce
			Peterson's "Naturally Sweet" Honey
			Potoczak Bee Farms
			Price Apiaries
			Pure Sweet Honey Farms
			Robertson Pollination Service
			Robson Honey
			William Robson
			Rosedale Apiaries
			Ryan Apiaries
			Schmidt Honey Farms
			Simpson Apiaries
			Sioux Honey Association
			Smoot Honey
			Solby Honey
			Stahlman Apiaries
			Steve E Parks Apiaries
			Stroope Bee & Honey
			T&D Honey Bee
			Talbott's Honey
			Terry Apiaries
			Thompson Apiaries
			Triple A Farm
			Tropical Blossom Honey
			Tubbs Apiaries
			Venable Wholesale
			Walter L Wilson Buzz 76 Apiaries
			Wiebersiek Honey Farms
			Wilmer Farms
			Brent J Woodworth
			Wooten's Golden Queens
			Yaddof Apiaries
A–570–864	731–TA–895	Pure Magnesium (Granular)/China	Concerned Employees of Northwest Alloys
			Magnesium Corporation of America
			United Steelworkers of America
			United Steelworkers of America (Local 8319)
A–570–865	731–TA–899	Hot-Rolled Steel Products/China	Bethlehem Steel
			Gallatin Steel
			Independent Steelworkers

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			IPSCO
			LTV Steel
			National Steel
			Nucor
			Rouge Steel Co
			Steel Dynamics
			US Steel
			United Steelworkers of America
			WCI Steel Inc
			Weirton Steel
			Wheeling-Pittsburgh Steel Corp
A–570–866	731–TA–921	Folding Gift Boxes/China	Field Container
			Harvard Folding Box
			Sterling Packaging
			Superior Packaging
A–570–867	731–TA–922	Automotive Replacement Glass Windshields/China	PPG Industries
			Safelite Glass
			Viracon/Curvlite Inc
			Visteon Corporation
A–570–868	731–TA–932	Folding Metal Tables and Chairs/China	Krueger International
			McCourt Manufacturing
			Meco
			Virco Manufacturing
A–570–873	731–TA–986	Ferrovanadium/China	Bear Metallurgical Co
			Shieldalloy Metallurgical Corp
A–570–875	731–TA–990	Non-Malleable Cast Iron Pipe Fittings/China	Anvil International Inc
			Buck Co Inc
			Frazier & Frazier Industries
			Ward Manufacturing Inc
A–570–877	731–TA–1010	Lawn and Garden Steel Fence Posts/China	Steel City Corp
A–570–878	731–TA–1013	Saccharin/China	PMC Specialties Group Inc
A–570–879	731–TA–1014	Polyvinyl Alcohol/China	Celanese Ltd
			E I du Pont de Nemours & Co
A–570–880	731–TA–1020	Barium Carbonate/China	Chemical Products Corp
A–570–881	731–TA–1021	Malleable Iron Pipe Fittings/China	Anvil International Inc
			Buck Co Inc
			Ward Manufacturing Inc
A–570–882	731–TA–1022	Refined Brown Aluminum Oxide/China	C–E Minerals
			Treibacher Schleifmittel North America Inc
			Washington Mills Co Inc
A–570–884	731–TA–1034	Certain Color Television Receivers/China	Five Rivers Electronic Innovations LLC
			Industrial Division of the Communications Workers of America (IUECWA)
			International Brotherhood of Electrical Workers (IBEW)
A–570–886	731–TA–1043	Polyethylene Retail Carrier Bags/China	Aargus Plastics Inc
			Advance Polybags Inc
			Advance Polybags (Nevada) Inc
			Advance Polybags (Northeast) Inc
			Alpha Industries Inc
			Alpine Plastics Inc
			Ampac Packaging LLC
			API Enterprises Inc
			Command Packaging
			Continental Poly Bags Inc
			Durabag Co Inc
			Europackaging LLC
			Genpak LLC (formerly Continental Superbag LLC)
			Genpak LLC (formerly Strout Plastics)
			Hilex Poly Co LLC
			Inteplast Group Ltd
			PCL Packaging Inc
			Poly-Pak Industries Inc
			Roplast Industries Inc
			Superbag Corp
			Unistar Plastics LLC
			Vanguard Plastics Inc
			VS Plastics LLC
A–570–887	731–TA–1046	Tetrahydrofurfuryl Alcohol/China	Penn Specialty Chemicals Inc
A–570–888	731–TA–1047	Ironing Tables and Certain Parts Thereof/China	Home Products International Inc
A–570–890	731–TA–1058	Wooden Bedroom Furniture/China	American Drew
			American of Martinsville
			Bassett Furniture Industries Inc

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Bebe Furniture Carolina Furniture Works Inc Carpenters Industrial Union Local 2093 Century Furniture Industries Country Craft Furniture Inc Craftique Crawford Furniture Mfg Corp EJ Victor Inc Forest Designs Harden Furniture Inc Hart Furniture Higdon Furniture Co IUE Industrial Division of CWA Local 82472 Johnston Tombigbee Furniture Mfg Co Kincaid Furniture Co Inc L & J G Stickley Inc Lea Industries Michels & Co MJ Wood Products Inc Mobel Inc Modern Furniture Manufacturers Inc Moosehead Mfg Co Oakwood Interiors O'Sullivan Industries Inc Pennsylvania House Inc Perdues Inc Sandberg Furniture Mfg Co Inc Stanley Furniture Co Inc Statton Furniture Mfg Assoc T Copeland & Sons Teamsters, Chauffeurs, Warehousemen and Helpers Local 991 Tom Seely Furniture UBC Southern Council of Industrial Workers Local Union 2305 United Steelworkers of America Local 193U Vaughan Furniture Co Inc Vaughan-Bassett Furniture Co Inc Vermont Tubbs Webb Furniture Enterprises Inc
A–570–891	731–TA–1059 ...	Hand Trucks and Certain Parts Thereof/China	B&P Manufacturing Gleason Industrial Products Inc Harper Trucks Inc Magline Inc Precision Products Inc Wesco Industrial Products Inc
A–570–892	731–TA–1060 ...	Carbazole Violet Pigment 23/China	Allegheny Color Corp Barker Fine Color Inc Clariant Corp Nation Ford Chemical Co Sun Chemical Co
A–570–894	731–TA–1070 ...	Certain Tissue Paper Products/China	American Crepe Corp Cindus Corp Eagle Tissue LLC Flower City Tissue Mills Co and Subsidiary Garlock Printing & Converting Corp Green Mtn Specialties Inc Hallmark Cards Inc Pacon Corp Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL–CIO ("PACE") Paper Service LTD Putney Paper Seaman Paper Co of MA Inc
A–570–895	731–TA–1069 ...	Certain Crepe Paper Products/China	American Crepe Corp Cindus Corp Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL–CIO ("PACE") Seaman Paper Co of MA Inc
A–570–896	731–TA–1071 ...	Alloy Magnesium/China	Garfield Alloys Inc Glass, Molders, Pottery, Plastics & Allied Workers International Local 374 Halaco Engineering

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			MagReTech Inc
			United Steelworkers of America Local 8319
			US Magnesium LLC
A–570–899	731–TA–1091 ...	Artists' Canvas/China	Duro Art Industries
			ICG/Holliston Mills Inc
			Signature World Class Canvas LLC
			Tara Materials Inc
A–570–898	731–TA–1082 ...	Chlorinated Isocyanurates/China	BioLab Inc
			Clearon Corp
			Occidental Chemical Corp
A–570–901	731–TA–1095 ...	Certain Lined Paper School Supplies/China	Fay Paper Products Inc
			MeadWestvaco Consumer & Office Products
			Norcom Inc
			Pacon Corp
			Roaring Spring Blank Book Co
			Top Flight Inc
			United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (USW)
A–570–904	731–TA–1103 ...	Certain Activated Carbon/China	Calgon Carbon Corp
			Norit Americas Inc
A–570–905	731–TA–1104 ...	Certain Polyester Staple Fiber/China	DAK Americas LLC
			Formed Fiber Techmologies LLC
			Nan Ya Plastics Corp America
			Palmetto Synthetics LLC
			United Synthetics Inc (USI)
			Wellman Inc
A–570–908	731–TA–1110 ...	Soium Hexametaphosphate (SHMP)/China	ICL Performance Products LP
			Innophos Inc
A–580–008	731–TA–134	Color Television Receivers/Korea	Committee to Preserve American Color Television
			Independent Radionic Workers of America
			Industrial Union Department, AFL–CIO
			International Brotherhood of Electrical Workers
			International Union of Electrical, Radio and Machine Workers
A–580–507	731–TA–279	Malleable Cast Iron Pipe Fittings/Korea	Grinnell
			Stanley G Flagg
			Stockham Valves & Fittings
			U–Brand
			Ward Manufacturing
A–580–601	731–TA–304	Top-of-the-Stove Stainless Steel Cooking Ware/Korea.	Farberware
			Regal Ware
			Revere Copper & Brass
			WearEver/Proctor Silex
A–580–603	731–TA–315	Brass Sheet and Strip/Korea	Allied Industrial Workers of America
			American Brass
			Bridgeport Brass
			Chase Brass & Copper
			Hussey Copper
			International Association of Machinists & Aerospace Workers
			Mechanics Educational Society of America (Local 56)
			The Miller Company
			Olin
			Revere Copper Products
			United Steelworkers of America
A–580–605	731–TA–369	Color Picture Tubes/Korea	Industrial Union Department, AFL–CIO
			International Association of Machinists & Aerospace Workers
			International Brotherhood of Electrical Workers
			International Union of Electronic, Electrical, Technical, Salaried and Machine Workers
			Philips Electronic Components Group
			United Steelworkers of America
			Zenith Electronics
A–580–803	731–TA–427	Small Business Telephone Systems/Korea	American Telephone & Telegraph
			Comdial
			Eagle Telephonic
A–580–805	731–TA–442	Industrial Nitrocellulose/Korea	Hercules
A–580–807	731–TA–459	Polyethylene Terephthalate Film/Korea	E I du Pont de Nemours

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–580–809	731–TA–533	Circular Welded Nonalloy Steel Pipe/Korea	Hoechst Celanese ICI Americas Allied Tube & Conduit American Tube Bull Moose Tube Century Tube CSI Tubular Products Cyclops Laclede Steel LTV Tubular Products Maruichi American Sharon Tube USX Western Tube & Conduit Wheatland Tube
A–580–810	731–TA–540	Welded ASTM A–312 Stainless Steel Pipe/Korea ...	Avesta Sandvik Tube Bristol Metals Crucible Materials Damascus Tubular Products United Steelworkers of America
A–580–811	731–TA–546	Carbon Steel Wire Rope/Korea	Bridon American Macwhyte Paulsen Wire Rope The Rochester Corporation United Automobile, Aerospace and Agricultural Implement Workers (Local 960) Williamsport Wire-rope Works Wire Rope Corporation of America
A–580–812	731–TA–556	DRAMs of 1 Megabit and Above/Korea	Micron Technology NEC Electronics Texas Instruments
A–580–813	731–TA–563	Stainless Steel Butt-Weld Pipe Fittings/Korea	Flo-Mac Inc Gerlin Markovitz Enterprises Shaw Alloy Piping Products Taylor Forge Stainless
A–580–815	731–TA–607	Cold-Rolled Carbon Steel Flat Products/Korea	Armco Steel Bethlehem Steel California Steel Industries Gulf States Steel Inland Steel Industries LTV Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
A–580–816	731–TA–618	Corrosion-Resistant Carbon Steel Flat Products/Korea.	Armco Steel Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries LTV Steel Lukens Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
A–580–825	731–TA–715	Oil Country Tubular Goods/Korea	Bellville Tube

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			IPSCO
			Koppel Steel
			Lone Star Steel
			Maverick Tube
			Newport Steel
			North Star Steel
			US Steel
			USS/Kobe
A–580–829	731–TA–772	Stainless Steel Wire Rod/Korea	AL Tech Specialty Steel
			Carpenter Technology
			Republic Engineered Steels
			Talley Metals Technology
			United Steelworkers of America
A–580–831	731–TA–791	Stainless Steel Plate in Coils/Korea	Allegheny Ludlum
			Armco Steel
			J&L Specialty Steel
			Lukens Steel
			North American Stainless
			United Steelworkers of America
A–580–834	731–TA–801	Stainless Steel Sheet and Strip/Korea	Allegheny Ludlum
			Armco Steel
			Bethlehem Steel
			Butler Armco Independent Union
			Carpenter Technology Corp
			J&L Specialty Steel
			North American Stainless
			United Steelworkers of America
			Zanesville Armco Independent Organization
A–580–836	731–TA–821	Cut-to-Length Carbon Steel Plate/Korea	Bethlehem Steel
			CitiSteel USA Inc
			Geneva Steel
			Gulf States Steel
			IPSCO Steel
			National Steel
			Tuscaloosa Steel
			US Steel
			United Steelworkers of America
A–580–839	731–TA–825	Polyester Staple Fiber/Korea	Arteva Specialties Sarl
			E I du Pont de Nemours
			Intercontinental Polymers
			Wellman
A–580–841	731–TA–854	Structural Steel Beams/Korea	Northwestern Steel and Wire
			Nucor
			Nucor-Yamato Steel
			TXI–Chaparral Steel
			United Steelworkers of America
A–580–844	731–TA–877	Steel Concrete Reinforcing Bar/Korea	AB Steel Mill Inc
			AmeriSteel
			Auburn Steel
			Birmingham Steel
			Border Steel
			Cascade Steel Rolling Mills Inc
			CMC Steel Group
			Co-Steel Inc
			Marion Steel
			North Star Steel Co
			Nucor Steel
			Rebar Trade Action Coalition
			Riverview Steel
			Sheffield Steel
			TAMCO
			TXI–Chaparral Steel Co
A–580–846	731–TA–889	Stainless Steel Angle/Korea	Slater Steels
			United Steelworkers of America
A–580–847	731–TA–916	Stainless Steel Bar/Korea	Carpenter Technology
			Crucible Specialty Metals
			Electralloy
			Empire Specialty Steel
			Republic Technologies International
			Slater Steels
			United Steelworkers of America
A–580–850	731–TA–1017	Polyvinyl Alcohol/Korea	Celanese Ltd
			E I du Pont de Nemours & Co

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–580–852	731–TA–1026 ...	Prestressed Concrete Steel Wire Strand/Korea	American Spring Wire Corp Insteel Wire Products Co Sivaco Georgia LLC Strand Tech Martin Inc Sumiden Wire Products Corp
A–583–008	731–TA–132	Small Diameter Carbon Steel Pipe and Tube/ Tawian.	Allied Tube & Conduit American Tube Bull Moose Tube Copperweld Tubing J&L Steel Kaiser Steel Merchant Metals Pittsburgh Tube Southwestern Pipe Western Tube & Conduit
A–583–009	731–TA–135	Color Television Receivers/Taiwan	Committee to Preserve American Color Television Independent Radionic Workers of America Industrial Union Department, AFL–CIO International Brotherhood of Electrical Workers International Union of Electrical, Radio and Machine Workers
A–583–080	AA1921–197	Carbon Steel Plate/Taiwan	No Petition (self-initiated by Treasury); Commerce service list identifies: Bethlehem Steel China Steel US Steel
A–583–505	731–TA–277	Oil Country Tubular Goods/Taiwan	CF&I Steel Copperweld Tubing Cyclops KPC Lone Star Steel LTV Steel Maverick Tube Quanex US Steel
A–583–507	731–TA–280	Malleable Cast Iron Pipe Fittings/Taiwan	Grinnell Stanley G Flagg Stockham Valves & Fittings U–Brand Ward Manufacturing
A–583–508	731–TA–299	Porcelain-on-Steel Cooking Ware/Taiwan	General Housewares
A–583–603	731–TA–305	Top-of-the-Stove Stainless Steel Cooking Ware/Taiwan.	Farberware Regal Ware Revere Copper & Brass WearEver/Proctor Silex
A–583–605	731–TA–310	Carbon Steel Butt-Weld Pipe Fittings/Taiwan	Ladish Mills Iron Works Steel Forgings Tube Forgings of America Weldbend
A–583–803	731–TA–410	Light-Walled Rectangular Tube/Taiwan	Bull Moose Tube Hannibal Industries Harris Tube Maruichi American Searing Industries Southwestern Pipe Western Tube & Conduit
A–583–806	731–TA–428	Small Business Telephone Systems/Taiwan	American Telephone & Telegraph Comdial Eagle Telephonic
A–583–810	731–TA–475	Chrome-Plated Lug Nuts/Taiwan	Consolidated International Automotive Key Manufacturing McGard
A–583–814	731–TA–536	Circular Welded Nonalloy Steel Pipe/Taiwan	Allied Tube & Conduit American Tube Bull Moose Tube Century Tube CSI Tubular Products Cyclops Laclede Steel LTV Tubular Products

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Maruichi American
			Sharon Tube
			USX
			Western Tube & Conduit
			Wheatland Tube
A–583–815	731–TA–541	Welded ASTM A–312 Stainless Steel Pipe/Taiwan	Avesta Sandvik Tube
			Bristol Metals
			Crucible Materials
			Damascus Tubular Products
			United Steelworkers of America
A–583–816	731–TA–564	Stainless Steel Butt-Weld Pipe Fittings/Taiwan	Flo-Mac Inc
			Gerlin
			Markovitz Enterprises
			Shaw Alloy Piping Products
			Taylor Forge Stainless
A–583–820	731–TA–625	Helical Spring Lock Washers/Taiwan	Illinois Tool Works
A–583–821	731–TA–640	Forged Stainless Steel Flanges/Taiwan	Gerlin
			Ideal Forging
			Maass Flange
			Markovitz Enterprises
A–583–824	731–TA–729	Polyvinyl Alcohol/Taiwan	Air Products and Chemicals
A–583–825	731–TA–743	Melamine Institutional Dinnerware/Taiwan	Carlisle Food Service Products
			Lexington United
			Plastics Manufacturing
A–583–826	731–TA–759	Collated Roofing Nails/Taiwan	Illinois Tool Works
			International Staple and Machines
			Stanley-Bostitch
A–583–827	731–TA–762	SRAMs/Taiwan	Micron Technology
A–583–828	731–TA–775	Stainless Steel Wire Rod/Taiwan	AL Tech Specialty Steel
			Carpenter Technology
			Republic Engineered Steels
			Talley Metals Technology
			United Steelworkers of America
A–583–830	731–TA–793	Stainless Steel Plate in Coils/Taiwan	Allegheny Ludlum
			Armco Steel
			J&L Specialty Steel
			Lukens Steel
			North American Stainless
			United Steelworkers of America
A–583–831	731–TA–803	Stainless Steel Sheet and Strip/Taiwan	Allegheny Ludlum
			Armco Steel
			Bethlehem Steel
			Butler Armco Independent Union
			Carpenter Technology Corp
			J&L Specialty Steel
			North American Stainless
			United Steelworkers of America
			Zanesville Armco Independent Organization
A–583–833	731–TA–826	Polyester Staple Fiber/Taiwan	Arteva Specialties Sarl
			Intercontinental Polymers
			Wellman
A–583–835	731–TA–906	Hot-Rolled Steel Products/Taiwan	Bethlehem Steel
			Gallatin Steel
			Independent Steelworkers
			IPSCO
			LTV Steel
			National Steel
			Nucor
			Rouge Steel Co
			Steel Dynamics
			US Steel
			United Steelworkers of America
			WCI Steel Inc
			Weirton Steel
			Wheeling-Pittsburgh Steel Corp
A–583–837	731–TA–934	Polyethylene Terephthalate Film, Sheet and Strip (PET Film)/Taiwan.	DuPont Teijin Films
			Mitsubishi Polyester Film LLC
			SKC America Inc
			Toray Plastics (America)
A–588–005	731–TA–48	High Power Microwave Amplifiers/Japan	Aydin
			MCL
A–588–015	AA1921–66	Television Receivers/Japan	AGIV (USA)

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Casio Computer CBM America Citizen Watch Funai Electric Hitachi Industrial Union Department JC Penny Matsushita Mitsubishi Electric Montgomery Ward NEC Orion Electric PT Imports Philips Electronics Philips Magnavox Sanyo Sharp Toshiba Toshiba America Consumer Products Victor Company of Japan Zenith Electronics
A–588–028	AA1921–111	Roller Chain/Japan	Acme Chain Division, North American Rockwell American Chain Association Atlas Chain & Precision Products Diamond Chain Link-Belt Chain Division, FMC Morse Chain Division, Borg Warner Rex Chainbelt
A–588–029	AA1921–85	Fish Netting of Man-Made Fiber/Japan	Jovanovich Supply LFSI Trans-Pacific Trading
A–588–038	AA1921–98	Bicycle Speedometers/Japan	Avocet Cat Eye Diversified Products NS International Sanyo Electric Stewart-Warner
A–588–041	AA1921–115	Synthetic Methionine/Japan	Monsanto
A–588–045	AA1921–124	Steel Wire Rope/Japan	AMSTED Industries
A–588–046	AA1921–129	Polychloroprene Rubber/Japan	E I du Pont de Nemours
A–588–054	AA1921–143	Tapered Roller Bearings 4 Inches and Under/Japan	No companies identified as petitioners at the Commission; Commerce service list identifies: American Honda Motor Federal Mogul Ford Motor General Motors Honda Hoover-NSK Bearing Isuzu Itocho ITOCHU International Kanematsu-Goshu USA Kawasaki Heavy Duty Industries Komatsu America Koyo Seiko Kubota Tractor Mitsubishi Motorambar Nachi America Nachi Western Nachi-Fujikoshi Nippon Seiko Nissan Motor Nissan Motor USA NSK NTN Subaru of America Sumitomo Suzuki Motor Timken Toyota Motor Sales Yamaha Motors
A–588–055	AA1921–154	Acrylic Sheet/Japan	Polycast Technology

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–588–056	AA1921–162	Melamine/Japan	Melamine Chemical
A–588–068	AA1921–188	Prestressed Concrete Steel Wire Strand/Japan	American Spring Wire Armco Steel Bethlehem Steel CF&I Steel Florida Wire & Cable
A–588–405	731–TA–207	Cellular Mobile Telephones/Japan	EF Johnson Motorola
A–588–602	731–TA–309	Carbon Steel Butt-Weld Pipe Fittings/Japan	Ladish Mills Iron Works Steel Forgings Tube Forgings of America Weldbend
A–588–604	731–TA–343	Tapered Roller Bearings Over 4 Inches/Japan	L&S Bearing Timken Torrington
A–588–605	731–TA–347	Malleable Cast Iron Pipe Fittings/Japan	Grinnell Stanley G Flagg Stockham Valves & Fittings U–Brand Ward Manufacturing
A–588–609	731–TA–368	Color Picture Tubes/Japan	Industrial Union Department, AFL–CIO International Association of Machinists & Aerospace Workers International Brotherhood of Electrical Workers International Union of Electronic, Electrical, Technical, Salaried and Machine Workers Philips Electronic Components Group United Steelworkers of America Zenith Electronics
A–588–702	731–TA–376	Stainless Steel Butt-Weld Pipe Fittings/Japan	Flo-Mac Inc Flowline Shaw Alloy Piping Products Taylor Forge Stainless
A–588–703	731–TA–377	Internal Combustion Industrial Forklift Trucks/Japan	Ad-Hoc Group of Workers from Hyster's Berea, Kentucky and Sulligent, Alabama Facilities Allied Industrial Workers of America Hyster Independent Lift Truck Builders Union International Association of Machinists & Aerospace Workers United Shop & Service Employees
A–588–704	731–TA–379	Brass Sheet and Strip/Japan	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper Hussey Copper International Association of Machinists & Aerospace Workers Mechanics Educational Society of America (Local 56) The Miller Company North Coast Brass & Copper Olin Pegg Metals Revere Copper Products United Steelworkers of America
A–588–706	731–TA–384	Nitrile Rubber/Japan	Uniroyal Chemical
A–588–707	731–TA–386	Granular Polytetrafluoroethylene/Japan	E I du Pont de Nemours ICI Americas
A–588–802	731–TA–389	3.5″ Microdisks/Japan	Verbatim
A–588–804	731–TA–394–A	Ball Bearings/Japan	Barden Corp Emerson Power Transmission Kubar Bearings McGill Manufacturing Co MPB Rexnord Inc Rollway Bearings Torrington
A–588–804	731–TA–394–B	Cylindrical Roller Bearings/Japan	Barden Corp Emerson Power Transmission Kubar Bearings MPB

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–588–804	731–TA–394–C	Spherical Plain Bearings/Japan	Rollway Bearings Torrington Barden Corp Emerson Power Transmission Kubar Bearings Rollway Bearings Torrington
A–588–806	731–TA–408	Electrolytic Manganese Dioxide/Japan	Chemetals Kerr-McGee Rayovac
A–588–807	731–TA–414	Industrial Belts/Japan	The Gates Rubber Company The Goodyear Tire and Rubber Company
A–588–809	731–TA–426	Small Business Telephone Systems/Japan	American Telephone & Telegraph Comdial Eagle Telephonic
A–588–810	731–TA–429	Mechanical Transfer Presses/Japan	Allied Products United Autoworkers of America United Steelworkers of America
A–588–811	731–TA–432	Drafting Machines/Japan	Vemco
A–588–812	731–TA–440	Industrial Nitrocellulose/Japan	Hercules
A–588–815	731–TA–461	Gray Portland Cement and Clinker/Japan	Calaveras Cement Hanson Permanente Cement Independent Workers of North America (Locals 49, 52, 89, 192 and 471) International Union of Operating Engineers (Local 12) National Cement Co Inc National Cement Company of California Southdown
A–588–817	731–TA–469	Electroluminescent Flat-Panel Displays/Japan	The Cherry Corporation Electro Plasma Magnascreen OIS Optical Imaging Systems Photonics Technology Planar Systems Plasmaco
A–588–823	731–TA–571	Professional Electric Cutting Tools/Japan	Black & Decker
A–588–826	731–TA–617	Corrosion-Resistant Carbon Steel Flat Products/ Japan.	Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Lukens Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
A–588–831	731–TA–660	Grain-Oriented Silicon Electrical Steel/Japan	Allegheny Ludlum Armco Steel United Steelworkers of America
A–588–833	731–TA–681	Stainless Steel Bar/Japan	AL Tech Specialty Steel Carpenter Technology Crucible Specialty Metals Electralloy Republic Engineered Steels Slater Steels Talley Metals Technology United Steelworkers of America
A–588–835	731–TA–714	Oil Country Tubular Goods/Japan	IPSCO Koppel Steel Lone Star Steel Co Maverick Tube Newport Steel North Star Steel US Steel
A–588–836	731–TA–727	Polyvinyl Alcohol/Japan	Air Products and Chemicals
A–588–837	731–TA–737	Large Newspaper Printing Presses/Japan	Rockwell Graphics Systems
A–588–838	731–TA–739	Clad Steel Plate/Japan	Lukens Steel

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–588–839	731–TA–740	Sodium Azide/Japan	American Azide
A–588–840	731–TA–748	Gas Turbo-Compressor Systems/Japan	Demag Delaval Dresser-Rand United Steelworkers of America
A–588–841	731–TA–750	Vector Supercomputers/Japan	Cray Research
A–588–843	731–TA–771	Stainless Steel Wire Rod/Japan	AL Tech Specialty Steel Carpenter Technology Republic Engineered Steels Talley Metals Technology United Steelworkers of America
A–588–845	731–TA–800	Stainless Steel Sheet and Strip/Japan	Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp J&L Specialty Steel North American Stainless United Steelworkers of America Zanesville Armco Independent Organization
A–588–846	731–TA–807	Hot-Rolled Carbon Steel Flat Products/Japan	Acme Steel Bethlehem Steel California Steel Industries Gallatin Steel Geneva Steel Gulf States Steel Independent Steelworkers IPSCO Ispat/Inland LTV Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Weirton Steel Wheeling-Pittsburgh Steel Corp
A–588–847	731–TA–820	Cut-to-Length Carbon Steel Plate/Japan	Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel IPSCO Steel Tuscaloosa Steel US Steel United Steelworkers of America
A–588–850	731–TA–847	Large-Diameter Carbon Steel Seamless Pipe/Japan	North Star Steel Timken US Steel United Steelworkers of America USS/Kobe
A–588–851	731–TA–847	Small-Diameter Carbon Steel Seamless Pipe/Japan	Koppel Steel North Star Steel Sharon Tube Timken US Steel United Steelworkers of America USS/Kobe Vision Metals' Gulf States Tube
A–588–852	731–TA–853	Structural Steel Beams/Japan	Northwestern Steel and Wire Nucor Nucor-Yamato Steel TXI–Chaparral Steel United Steelworkers of America
A–588–854	731–TA–860	Tin-Mill Products/Japan	Independent Steelworkers United Steelworkers of America Weirton Steel
A–588–856	731–TA–888	Stainless Steel Angle/Japan	Slater Steels United Steelworkers of America
A–588–857	731–TA–919	Welded Large Diameter Line Pipe/Japan	American Cast Iron Pipe Berg Steel Pipe Bethlehem Steel Napa Pipe/Oregon Steel Mills Saw Pipes USA

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Stupp
			US Steel
A–588–861	731–TA–1016 ...	Polyvinyl Alcohol/Japan	Celenex Ltd
			E I du Pont de Nemours & Co
A–588–862	731–TA–1023 ...	Certain Ceramic Station Post Insulators/Japan	Lapp Insulator Co LLC
			Newell Porcelain Co Inc
			Victor Insulators Inc
A–588–866	731–TA–1090 ...	Superalloy Degassed Chromium/Japan	Eramet Marietta Inc
A–602–803	731–TA–612	Corrosion-Resistant Carbon Steel Flat Products/ Australia.	Armco Steel
			Bethlehem Steel
			California Steel Industries
			Geneva Steel
			Gulf States Steel
			Inland Steel Industries
			LTV Steel
			Lukens Steel
			National Steel
			Nextech
			Rouge Steel Co
			Sharon Steel
			Theis Precision Steel
			Thompson Steel
			US Steel
			United Steelworkers of America
			WCI Steel
			Weirton Steel
A–791–805	731–TA–792	Stainless Steel Plate in Coils/South Africa	Allegheny Ludlum
			Armco Steel
			J&L Specialty Steel
			Lukens Steel
			North American Stainless
			United Steelworkers of America
A–791–808	731–TA–850	Small-Diameter Carbon Steel Seamless Pipe/South Africa.	Koppel Steel
			North Star Steel
			Sharon Tube
			Timken
			US Steel
			United Steelworkers of America
			USS/Kobe
			Vision Metals' Gulf States Tube
A–791–809	731–TA–905	Hot-Rolled Steel Products/South Africa	Bethlehem Steel
			Gallatin Steel
			Independent Steelworkers
			IPSCO
			LTV Steel
			National Steel
			Nucor
			Rouge Steel Co
			Steel Dynamics
			US Steel
			United Steelworkers of America
			WCI Steel Inc
			Weirton Steel
			Wheeling-Pittsburgh Steel Corp
A–791–815	731–TA–987	Ferrovanadium/South Africa	Bear Metallurgical Co
			Shieldalloy Metallurgical Corp
A–821–801	731–TA–340E ..	Solid Urea/Russia	Agrico Chemical
			American Cyanamid
			CF Industries
			First Mississippi
			Mississippi Chemical
			Terra International
			WR Grace
A–821–802	731–TA–539–C	Uranium/Russia	Ferret Exploration
			First Holding
			Geomex Minerals
			IMC Fertilizer
			Malapai Resources
			Oil, Chemical and Atomic Workers
			Pathfinder Mines
			Power Resources

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Rio Algom Mining
			Solution Mining
			Total Minerals
			Umetco Minerals
			Uranium Resources
A–821–804	731–TA–568	Ferrosilicon/Russia	AIMCOR
			Alabama Silicon
			American Alloys
			Globe Metallurgical
			Oil, Chemical and Atomic Workers (Local 389)
			Silicon Metaltech
			United Autoworkers of America (Local 523)
			United Steelworkers of America (Locals 2528, 3081, 5171 and 12646)
A–821–805	731–TA–697	Pure Magnesium/Russia	Dow Chemical
			International Union of Operating Engineers (Local 564)
			Magnesium Corporation of America
			United Steelworkers of America (Local 8319)
A–821–807	731–TA–702	Ferrovanadium and Nitrided Vanadium/Russia	Shieldalloy Metallurgical
A–821–809	731–TA–808	Hot-Rolled Carbon Steel Flat Products/Russia	Acme Steel
			Bethlehem Steel
			California Steel Industries
			Gallatin Steel
			Geneva Steel
			Gulf States Steel
			Independent Steelworkers
			IPSCO
			Ispat/Inland
			LTV Steel
			National Steel
			Nucor
			Rouge Steel Co
			Steel Dynamics
			US Steel
			United Steelworkers of America
			WCI Steel
			Weirton Steel
			Wheeling-Pittsburgh Steel Corp
A–821–811	731–TA–856	Ammonium Nitrate/Russia	Agrium
			Air Products and Chemicals
			El Dorado Chemical
			LaRoche
			Mississippi Chemical
			Nitram
			Wil-Gro Fertilizer
A–821–817	731–TA–991	Silicon Metal/Russia	Globe Metallurgical Inc
			SIMCALA Inc
A–821–819	731–TA1072	Pure and Alloy Magnesium/Russia	Garfield Alloys Inc
			Glass, Molders, Pottery, Plastics & Allied Workers International Local 374
			Halaco Engineering
			MagReTech Inc
			United Steelworkers of America Local 8319
			US Magnesium LLC
A–822–801	731–TA–340B ..	Solid Urea/Belarus	Agrico Chemical
			American Cyanamid
			CF Industries
			First Mississippi
			Mississippi Chemical
			Terra International
			WR Grace
A–822–804	731–TA–873	Steel Concrete Reinforcing Bar/Belarus	AB Steel Mill Inc
			AmeriSteel
			Auburn Steel
			Birmingham Steel
			Border Steel
			Cascade Steel Rolling Mills Inc
			CMC Steel Group
			Co-Steel Inc
			Marion Steel
			North Star Steel Co
			Nucor Steel

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Rebar Trade Action Coalition
			Riverview Steel
			Sheffield Steel
			TAMCO
			TXI–Chaparral Steel Co
A–823–801	731–TA–340H ..	Solid Urea/Ukraine	Agrico Chemical
			American Cyanamid
			CF Industries
			First Mississippi
			Mississippi Chemical
			Terra International
			WR Grace
A–823–802	731–TA–539–E	Uranium/Ukraine	Ferret Exploration
			First Holding
			Geomex Minerals
			IMC Fertilizer
			Malapai Resources
			Oil, Chemical and Atomic Workers
			Pathfinder Mines
			Power Resources
			Rio Algom Mining
			Solution Mining
			Total Minerals
			Umetco Minerals
			Uranium Resources
A–823–804	731–TA–569	Ferrosilicon/Ukraine	AIMCOR
			Alabama Silicon
			American Alloys
			Globe Metallurgical
			Oil, Chemical and Atomic Workers (Local 389)
			Silicon Metaltech
			United Autoworkers of America (Local 523)
			United Steelworkers of America (Locals 2528, 3081, 5171 and 12646)
A–823–805	731–TA–673	Silicomanganese/Ukraine	Elkem Metals
			Oil, Chemical and Atomic Workers (Local 3–639)
A–823–809	731–TA–882	Steel Concrete Reinforcing Bar/Ukraine	AB Steel Mill Inc
			AmeriSteel
			Auburn Steel
			Birmingham Steel
			Border Steel
			Cascade Steel Rolling Mills Inc
			CMC Steel Group
			Co-Steel Inc
			Marion Steel
			North Star Steel Co
			Nucor Steel
			Rebar Trade Action Coalition
			Riverview Steel
			Sheffield Steel
			TAMCO
			TXI–Chaparral Steel Co
A–823–810	731–TA–894	Ammonium Nitrate/Ukraine	Agrium
			Air Products and Chemicals
			Committee for Fair Ammonium Nitrate Trade
			El Dorado Chemical
			LaRoche Industries
			Mississippi Chemical
			Nitram
			Prodica
A–823–811	731–TA–908	Hot-Rolled Steel Products/Ukraine	Bethlehem Steel
			Gallatin Steel
			Independent Steelworkers
			IPSCO
			LTV Steel
			National Steel
			Nucor
			Rouge Steel Co
			Steel Dynamics
			US Steel
			United Steelworkers of America
			WCI Steel Inc
			Weirton Steel

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–823–812	731–TA–962	Carbon and Certain Alloy Steel Wire Rod/Ukraine ...	Wheeling-Pittsburgh Steel Corp AmeriSteel Birmingham Steel Cascade Steel Rolling Mills Connecticut Steel Corp Co-Steel Raritan GS Industries Keystone Consolidated Industries North Star Steel Texas Nucor Steel-Nebraska (a division of Nucor Corp) Republic Technologies International Rocky Mountain Steel Mills
A–831–801	731–TA–340A ..	Solid Urea/Armenia	Agrico Chemical American Cyanamid CF Industries First Mississippi Mississippi Chemical Terra International WR Grace
A–834–806	731–TA–902	Hot-Rolled Steel Products/Kazakhstan	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dymanics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A–834–807	731–TA–930	Silicomanganese/Kazakhstan	Eramet Marietta Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5–0639
A–841–804	731–TA–879	Steel Concrete Reinforcing Bar/Moldova	AB Steel Mill Inc AmeriSteel Auburn Steel Birmingham Steel Border Steel Cascade Steel Rolling Mills Inc CMC Steel Group Co-Steel Inc Marion Steel North Star Steel Co Nucor Steel Rebar Trade Action Coalition Riverview Steel Sheffield Steel TAMCO TXI–Chaparral Steel Co
A–841–805	731–TA–959	Carbon and Certain Alloy Steel Wire Rod/Moldova	AmeriSteel Birmingham Steel Cascade Steel Rolling Mills Connecticut Steel Corp Co-Steel Raritan GS Industries Keystone Consolidated Industries North Star Steel Texas Nucor Steel-Nebraska (a division of Nucor Corp) Republic Technologies International Rocky Mountain Steel Mills
A–842–801	731–TA–340F ...	Solid Urea/Tajikistan	Agrico Chemical American Cyanamid CF Industries First Mississippi Mississippi Chemical Terra International WR Grace
A–843–801	731–TA–340G ..	Solid Urea/Turkmenistan	Agrico Chemical American Cyanamid CF Industries

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
A–843–802	731–TA–539	Uranium/Kazakhstan	First Mississippi Mississippi Chemical Terra International WR Grace Ferret Exploration First Holding Geomex Minerals IMC Fertilizer Malapai Resources Oil, Chemical and Atomic Workers Pathfinder Mines Power Resources Rio Algom Mining Solution Mining Total Minerals Umetco Minerals Uranium Resources
A–843–804	731–TA–566	Ferrosilicon/Kazakhstan	AIMCOR Alabama Silicon American Alloys Globe Metallurgical Oil, Chemical and Atomic Workers (Local 389) Silicon Metaltech United Autoworkers of America (Local 523) United Steelworkers of America (Locals 2528, 3081, 5171 and 12646)
A–844–801	731–TA–340I	Solid Urea/Uzbekistan	Agrico Chemical American Cyanamid CF Industries First Mississippi Mississippi Chemical Terra International WR Grace
A–844–802	731–TA–539–F	Uranium/Uzbekistan	Ferret Exploration First Holding Geomex Minerals IMC Fertilizer Malapai Resources Oil, Chemical and Atomic Workers Pathfinder Mines Power Resources Rio Algom Mining Solution Mining Total Minerals Umetco Minerals Uranium Resources
A–851–802	731–TA–846	Small-Diameter Carbon Steel Seamless Pipe/Czech Republic.	Koppel Steel North Star Steel Sharon Tube Timken US Steel United Steelworkers of America USS/Kobe Vision Metals' Gulf States Tube
C–122–404	701–TA–224	Live Swine/Canada	National Pork Producers Council Wilson Foods
C–122–805	701–TA–297	Steel Rails/Canada	Bethlehem Steel CF&I Steel
C–122–815	701–TA–309–A	Alloy Magnesium/Canada	Magnesium Corporation of America
C–122–815	701–TA–309–B	Pure Magnesium/Canada	Magnesium Corporation of America
C–122–839	701–TA–414	Softwood Lumber/Canada	71 Lumber Co Almond Bros Lbr Co Anthony Timberlands Balfour Lbr Co Ball Lumber Banks Lumber Company Barge Forest Products Co Beadles Lumber Co Bearden Lumber Bennett Lumber Big Valley Band Mill Bighorn Lumber Co Inc

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Blue Mountain Lumber Buddy Bean Lumber Burgin Lumber Co Ltd Burt Lumber Company C&D Lumber Co Ceda-Pine Veneer Cersosimo Lumber Co Inc Charles Ingram Lumber Co Inc Charleston Heart Pine Chesterfield Lumber Chips Chocorua Valley Lumber Co Claude Howard Lumber Clearwater Forest Industries CLW Inc CM Tucker Lumber Corp Coalition for Fair Lumber Imports Executive Committee Cody Lumber Co Collins Pine Co Collums Lumber Columbus Lumber Co Contoocook River Lumber Conway Guiteau Lumber Cornwright Lumber Co Crown Pacific Daniels Lumber Inc Dean Lumber Co Inc Deltic Timber Corporation Devils Tower Forest Products DiPrizio Pine Sales Dorchester Lumber Co DR Johnson Lumber East Brainerd Lumber Co East Coast Lumber Company Eas-Tex Lumber ECK Wood Products Ellingson Lumber Co Elliott Sawmilling Empire Lumber Co Evergreen Forest Products Excalibur Shelving Systems Inc Exley Lumber Co FH Stoltze Land & Lumber Co FL Turlington Lbr Co Inc Fleming Lumber Flippo Lumber Floragen Forest Products Frank Lumber Co Franklin Timber Co Fred Tebb & Sons Fremont Sawmill Frontier Resources Garrison Brothers Lumber Co and Subsidiaries Georgia Lumber Gilman Building Products Godfrey Lumber Granite State Forest Prod Inc Great Western Lumber Co Greenville Molding Inc Griffin Lumber Company Guess Brothers Lumber Gulf Lumber Gulf States Paper Guy Bennett Lumber Hampton Resources Hancock Lumber Hankins Inc Hankins Lumber Co Harrigan Lumber Harwood Products Haskell Lumber Inc Hatfield Lumber

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Hedstrom Lumber Herrick Millwork Inc HG Toler & Son Lumber Co Inc HG Wood Industries LLC Hogan & Storey Wood Prod Hogan Lumber Co Hood Industries HS Hofler & Sons Lumber Co Inc Hubbard Forest Ind Inc HW Culp Lumber Co Idaho Veneer Co Industrial Wood Products Intermountain Res LLC International Paper J Franklin Jones Lumber Co Inc Jack Batte & Sons Inc Jasper Lumber Company JD Martin Lumber Co JE Jones Lumber Co Jerry G Williams & Sons JH Knighton Lumber Co Johnson Lumber Company Jordan Lumber & Supply Joseph Timber Co JP Haynes Lbr Co Inc JV Wells Inc JW Jones Lumber Keadle Lumber Enterprises Keller Lumber King Lumber Co Konkolville Lumber Langdale Forest Products Laurel Lumber Company Leavitt Lumber Co Leesville Lumber Co Limington Lumber Co Longview Fibre Co Lovell Lumber Co Inc M Kendall Lumber Co Manke Lumber Co Marriner Lumber Co Mason Lumber MB Heath & Sons Lumber Co MC Dixon Lumber Co Inc Mebane Lumber Co Inc Metcalf Lumber Co Inc Millry Mill Co Inc Moose Creek Lumber Co Moose River Lumber Morgan Lumber Co Inc Mount Yonah Lumber Co Nagel Lumber New Kearsarge Corp New South Nicolet Hardwoods Nieman Sawmills SD Nieman Sawmills WY North Florida Northern Lights Timber & Lumber Northern Neck Lumber Co Ochoco Lumber Co Olon Belcher Lumber Co Owens and Hurst Lumber Packaging Corp of America Page & Hill Forest Products Paper, Allied-Industrial, Chemical and Energy Workers International Union Parker Lumber Pate Lumber Co Inc PBS Lumber Pedigo Lumber Co Piedmont Hardwood Lumber Co Pine River Lumber Co

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Pinecrest Lumber Co Pleasant River Lumber Co Pleasant Western Lumber Inc Plum Creek Timber Pollard Lumber Portac Potlatch Potomac Supply Precision Lumber Inc Pruitt Lumber Inc R Leon Williams Lumber Co RA Yancey Lumber Rajala Timber Co Ralph Hamel Forest Products Randy D Miller Lumber Rappahannock Lumber Co Regulus Stud Mills Inc Riley Creek Lumber Roanoke Lumber Co Robbins Lumber Robertson Lumber Roseburg Forest Products Co Rough & Ready RSG Forest Products Rushmore Forest Products RY Timber Inc Sam Mabry Lumber Co Scotch Lumber SDS Lumber Co Seacoast Mills Inc Seago Lumber Seattle-Snohomish Seneca Sawmill Shaver Wood Products Shearer Lumber Products Shuqualak Lumber SI Storey Lumber Sierra Forest Products Sierra Pacific Industries Sigfridson Wood Products Silver City Lumber Inc Somers Lbr & Mfg Inc South & Jones South Coast Southern Forest Industries Inc Southern Lumber St Laurent Forest Products Starfire Lumber Co Steely Lumber Co Inc Stimson Lumber Summit Timber Co Sundance Lumber Superior Lumber Swanson Superior Forest Products Inc Swift Lumber Tamarack Mill Taylor Lumber & Treating Inc Temple-Inland Forest Products Thompson River Lumber Three Rivers Timber Thrift Brothers Lumber Co Inc Timco Inc Tolleson Lumber Toney Lumber TR Miller Mill Co Tradewinds of Virginia Ltd Travis Lumber Co Tree Source Industries Inc Tri-State Lumber TTT Studs United Brotherhood of Carpenters and Joiners Viking Lumber Co VP Kiser Lumber Co

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Walton Lumber Co Inc Warm Springs Forest Products Westvaco Corp Wilkins, Kaiser & Olsen Inc WM Shepherd Lumber Co WR Robinson Lumber Co Inc Wrenn Brothers Inc Wyoming Sawmills Yakama Forest Products Younce & Ralph Lumber Co Inc Zip-O–Log Mills Inc
C–122–841	701–TA–418	Carbon and Certain Alloy Steel Wire Rod/Canada ..	AmeriSteel Birmingham Steel Cascade Steel Rolling Mills Connecticut Steel Corp Co-Steel Raritan GS Industries Keystone Consolidated Industries North Star Steel Texas Nucor Steel-Nebraska (a division of Nucor Corp) Republic Technologies International Rocky Mountain Steel Mills
C–122–848	701–TA–430B ..	Hard Red Spring Wheat/Canada	North Dakota Wheat Commission
C–201–505	701–TA–265	Porcelain-on-Steel Cooking Ware/Mexico	General Housewares
C–201–810	701–TA–325	Cut-to-Length Carbon Steel Plate/Mexico	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
C–307–804	303–TA–21	Gray Portland Cement and Clinker/Venezuela	Florida Crushed Stone Southdown Tarmac America
C–307–808	303–TA–23	Ferrosilicon/Venezuela	AIMCOR Alabama Silicon American Alloys Globe Metallurgical Oil, Chemical and Atomic Workers (Local 389) Silicon Metaltech United Autoworkers of America (Local 523) United Steelworkers of America (Locals 2528, 3081, 5171 and 12646)
C–333–401	701–TA–E	Cotton Shop Towels/Peru	No case at the Commission; Commerce service list identifies: Durafab Kleen-Tex Industries Lewis Eckert Robb Milliken Pavis & Harcourt
C–351–037	104–TAA–21	Cotton Yarn/Brazil	American Yarn Spinners Association Harriet & Henderson Yarns LaFar Industries
C–351–504	701–TA–249	Heavy Iron Construction Castings/Brazil	Alhambra Foundry Allegheny Foundry Bingham & Taylor Campbell Foundry Charlotte Pipe & Foundry Deeter Foundry East Jordan Foundry Le Baron Foundry Municipal Castings Neenah Foundry Opelika Foundry Pinkerton Foundry Tyler Pipe

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			US Foundry & Manufacturing
			Vulcan Foundry
C–351–604	701–TA–269	Brass Sheet and Strip/Brazil	Allied Industrial Workers of America
			American Brass
			Bridgeport Brass
			Chase Brass & Copper
			Hussey Copper
			International Association of Machinists & Aerospace Workers
			Mechanics Educational Society of America (Local 56)
			The Miller Company
			Olin
			Revere Copper Products
			United Steelworkers of America
C–351–818	701–TA–320	Cut-to-Length Carbon Steel Plate/Brazil	Bethlehem Steel
			California Steel Industries
			CitiSteel USA Inc
			Geneva Steel
			Gulf States Steel
			Inland Steel Industries
			Lukens Steel
			National Steel
			Nextech
			Sharon Steel
			Theis Precision Steel
			Thompson Steel
			US Steel
			United Steelworkers of America
C–351–829	701–TA–384	Hot-Rolled Carbon Steel Flat Products/Brazil	Acme Steel
			Bethlehem Steel
			California Steel Industries
			Gallatin Steel
			Geneva Steel
			Gulf States Steel
			Independent Steelworkers
			IPSCO
			Ispat/Inland
			LTV Steel
			National Steel
			Nucor
			Rouge Steel Co
			Steel Dynamics
			US Steel
			United Steelworkers of America
			WCI Steel
			Weirton Steel
			Wheeling-Pittsburgh Steel Corp
C–351–833	701–TA–417	Carbon and Certain Alloy Steel Wire Rod/Brazil	AmeriSteel
			Birmingham Steel
			Cascade Steel Rolling Mills
			Connecticut Steel Corp
			Co-Steel Raritan
			GS Industries
			Keystone Consolidated Industries
			North Star Steel Texas
			Nucor Steel-Nebraska (a division of Nucor Corp)
			Republic Technologies International
			Rocky Mountain Steel Mills
C–357–004	701–TA–A	Carbon Steel Wire Rod/Argentina	Atlantic Steel
			Continental Steel
			Georgetown Steel
			North Star Steel
			Raritan River Steel
C–357–813	701–TA–402	Honey/Argentina	AH Meyer & Sons
			Adee Honey Farms
			Althoff Apiaries
			American Beekeeping Federation
			American Honey Producers Association
			Anderson Apiaries
			Arroyo Apiaries
			Artesian Honey Producers
			B Weaver Apiaries

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Bailey Enterprises Barkman Honey Basler Honey Apiary Beals Honey Bears Paw Apiaries Beaverhead Honey Bee Biz Bee Haven Honey Belliston Brothers Apiaries Big Sky Honey Bill Rhodes Honey Richard E Blake Curt Bronnenbery Brown's Honey Farms Brumley's Bees Buhmann Apiaries Carys Honey Farms Chaparrel Honey Charles Apiaries Mitchell Charles Collins Honey Conor Apiaries Coy's Honey Farm Dave Nelson Apiaries Delta Bee Eisele's Pollination & Honey Ellingsoa's Elliott Curtis & Sons Charles L Emmons, Sr Gause Honey Gene Brandi Apiaries Griffith Honey Haff Apiaries Hamilton Bee Farms Hamilton Honey Happie Bee Harvest Honey Harvey's Honey Hiatt Honey Hoffman Honey Hollman Apiaries Honey House Honeybee Apiaries Gary M Honl Rand William Honl and Sydney Jo Honl James R & Joann Smith Trust Jaynes Bee Products Johnston Honey Farms Larry Johnston Ke-An Honey Kent Honeybees Lake-Indianhead Honey Farms Lamb's Honey Farm Las Flores Apiaries Mackrill Honey Farms & Sales Raymond Marquette Mason & Sons Honey McCoy's Sunny South Apiaries Merrimack Valley Apiaries & Evergreen Honey Met 2 Honey Farm Missouri River Honey Mitchell Brothers Honey Monda Honey Farm Montana Dakota Honey Northern Bloom Honey Noye's Apiaries Oakes Honey Oakley Honey Farms Old Mill Apiaries Opp Honey Oro Dulce Peterson's "Naturally Sweet" Honey Potoczak Bee Farms

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Price Apiaries Pure Sweet Honey Farms Robertson Pollination Service Robson Honey William Robson Rosedale Apiaries Ryan Apiaries Schmidt Honey Farms Simpson Apiaries Sioux Honey Association Smoot Honey Solby Honey Stahlman Apiaries Steve E Parks Apiaries Stroope Bee & Honey T&D Honey Bee Talbott's Honey Terry Apiaries Thompson Apiaries Triple A Farm Tropical Blossom Honey Tubbs Apiaries Venable Wholesale Walter L Wilson Buzz 76 Apiaries Wiebersiek Honey Farms Wilmer Farms Brent J Woodworth Wooten's Golden Queens Yaddof Apiaries
C–357–815	701–TA–404	Hot-Rolled Steel Products/Argentina	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
C–401–401	701–TA–231	Cold-Rolled Carbon Steel Flat Products/Sweden	Bethlehem Steel Chaparral US Steel
C–401–804	701–TA–327	Cut-to-Length Carbon Steel Plate/Sweden	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
C–403–802	701–TA–302	Fresh and Chilled Atlantic Salmon/Norway	Heritage Salmon The Coalition for Fair Atlantic Salmon Trade
C–408–046	104–TAA–7	Sugar/EU	No petition at the Commission; Commerce service list identifies: AJ Yates Alexander & Baldwin American Farm Bureau Federation American Sugar Cane League American Sugarbeet Growers Association Amstar Sugar Florida Sugar Cane League Florida Sugar Marketing and Terminal Association H&R Brokerage

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Hawaiian Agricultural Research Center Leach Farms Michigan Farm Bureau Michigan Sugar Rio Grande Valley Sugar Growers Association Sugar Cane Growers Cooperative of Florida Talisman Sugar US Beet Sugar Association United States Beet Sugar Association United States Cane Sugar Refiners' Association
C–412–815	701–TA–328	Cut-to-Length Carbon Steel Plate/United Kingdom ..	Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
C–412–821	701–TA–412	Low Enriched Uranium/United Kingdom	United States Enrichment Corp USEC Inc
C–421–601	701–TA–278	Fresh Cut Flowers/Netherlands	Burdette Coward California Floral Council Floral Trade Council Florida Flower Association Gold Coast Uanko Nursery Hollandia Wholesale Florist Manatee Fruit Monterey Flower Farms Topstar Nursery
C–421–809	701–TA–411	Low Enriched Uranium/Netherlands	United States Enrichment Corp USEC Inc
C–423–806	701–TA–319	Cut-to-Length Carbon Steel Plate/Belgium	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
C–423–809	701–TA–376	Stainless Steel Plate in Coils/Belgium	Allegheny Ludlum Armco Steel Lukens Steel North American Stainless United Steelworkers of America
C–427–603	701–TA–270	Brass Sheet and Strip/France	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper Hussey Copper International Association of Machinists & Aerospace Workers Mechanics Educational Society of America (Local 56) The Miller Company Olin Revere Copper Products United Steelworkers of America
C–427–805	701–TA–315	Hot-Rolled Lead and Bismuth Carbon Steel Products/France.	Bethlehem Steel Inland Steel Industries USS/Kobe Steel
C–427–810	701–TA–348	Corrosion-Resistant Carbon Steel Flat Products/France.	Armco Steel

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries LTV Steel Lukens Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
C–427–815	701–TA–380	Stainless Steel Sheet and Strip/France	Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp North American Stainless United Steelworkers of America Zanesville Armco Independent Organization
C–427–817	701–TA–387	Cut-to-Length Carbon Steel Plate/France	Bethlehem Steel Geneva Steel IPSCO Steel National Steel US Steel United Steelworkers of America
C–427–819	701–TA–409	Low Enriched Uranium/France	United States Enrichment Corp USEC Inc
C–428–817	701–TA–340	Cold-Rolled Carbon Steel Flat Products/Germany ...	Armco Steel Bethlehem Steel California Steel Industries Gulf States Steel Inland Steel Industries LTV Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
C–428–817	701–TA–349	Corrosion-Resistant Carbon Steel Flat Products/ Germany.	Armco Steel Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries LTV Steel Lukens Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
C–428–817	701–TA–322	Cut-to-Length Carbon Steel Plate/Germany	Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Lukens Steel
			National Steel
			Nextech
			Sharon Steel
			Theis Precision Steel
			Thompson Steel
			US Steel
			United Steelworkers of America
C–428–829	701–TA–410	Low Enriched Uranium/Germany	United States Enrichment Corp
			USEC Inc
C–437–805	701–TA–426	Sulfanilic Acid/Hungary	Nation Ford Chemical
C–469–004	701–TA–178	Stainless Steel Wire Rod/Spain	AL Tech Specialty Steel
			Armco Steel
			Carpenter Technology
			Colt Industries
			Cyclops
			Guterl Special Steel
			Joslyn Stainless Steels
			Republic Steel
C–469–804	701–TA–326	Cut-to-Length Carbon Steel Plate/Spain	Bethlehem Steel
			California Steel Industries
			CitiSteel USA Inc
			Geneva Steel
			Gulf States Steel
			Inland Steel Industries
			Lukens Steel
			National Steel
			Nextech
			Sharon Steel
			Theis Precision Steel
			Thompson Steel
			US Steel
			United Steelworkers of America
C–475–812	701–TA–355	Grain-Oriented Silicon Electrical Steel/Italy	Allegheny Ludlum
			Armco Steel
			Butler Armco Independent Union
			United Steelworkers of America
			Zanesville Armco Independent Union
C–475–815	701–TA–362	Seamless Pipe/Italy	Koppel Steel
			Quanex
			Timken
			United States Steel
C–475–817	701–TA–364	Oil Country Tubular Goods/Italy	IPSCO
			Koppel Steel
			Lone Star Steel
			Maverick Tube
			Newport Steel
			North Star Steel
			US Steel
			USS/Kobe
C–475–819	701–TA–365	Pasta/Italy	A Zerega's Sons
			American Italian Pasta
			Borden
			D Merlino & Sons
			Dakota Growers Pasta
			Foulds
			Gilster-Mary Lee
			Gooch Foods
			Hershey Foods
			LaRinascente Macaroni Co
			Pasta USA
			Philadelphia Macaroni
			ST Specialty Foods
C–475–821	701–TA–373	Stainless Steel Wire Rod/Italy	AL Tech Specialty Steel
			Carpenter Technology
			Republic Engineered Steels
			Talley Metals Technology
			United Steelworkers of America
C–475–823	701–TA–377	Stainless Steel Plate in Coils/Italy	Allegheny Ludlum
			Armco Steel
			J&L Specialty Steel
			Lukens Steel
			North American Stainless

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
C–475–825	701–TA–381	Stainless Steel Sheet and Strip/Italy	United Steelworkers of America Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp J&L Specialty Steel North American Stainless United Steelworkers of America Zanesville Armco Independent Organization
C–475–827	701–TA–390	Cut-to-Length Carbon Steel Plate/Italy	Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel IPSCO Steel National Steel US Steel United Steelworkers of America
C–475–830	701–TA–413	Stainless Steel Bar/Italy	Carpenter Technology Crucible Specialty Metals Electralloy Empire Specialty Steel Republic Technologies International Slater Steels United Steelworkers of America
C–489–502	701–TA–253	Welded Carbon Steel Pipe and Tube/Turkey	Allied Tube & Conduit American Tube Bernard Epps Bock Industries Bull Moose Tube Central Steel Tube Century Tube Copperweld Tubing Cyclops Hughes Steel & Tube Kaiser Steel Laclede Steel Maruichi American Maverick Tube Merchant Metals Phoenix Steel Pittsburgh Tube Quanex Sharon Tube Southwestern Pipe UNR–Leavitt Welded Tube Western Tube & Conduit Wheatland Tube
C–489–806	701–TA–366	Pasta/Turkey	A Zerega's Sons American Italian Pasta Borden D Merlino & Sons Dakota Growers Pasta Foulds Gilster-Mary Lee Gooch Foods Hershey Foods LaRinascente Macaroni Co Pasta USA Philadelphia Macaroni ST Specialty Foods
C–507–501	N/A	Raw In-Shell Pistachios/Iran	Blackwell Land Co Cal Pure Pistachios Inc California Pistachio Commission California Pistachio Orchards Keenan Farms Inc Kern Pistachio Hulling & Drying Co-Op Los Rancheros de Poco Pedro Pistachio Producers of California TM Duche Nut Co Inc
C–507–601	N/A	Roasted In-Shell Pistachios/Iran	Cal Pure Pistachios Inc California Pistachio Commission

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Keenan Farms Inc
			Kern Pistachio Hulling & Drying Co-Op
			Pistachio Producers of California
			TM Duche Nut Co Inc
C–508–605	701–TA–286	Industrial Phosphoric Acid/Israel	Albright & Wilson
			FMC
			Hydrite Chemical
			Monsanto
			Stauffer Chemical
C–533–063	303–TA–13	Iron Metal Castings/India	Campbell Foundry
			Le Baron Foundry
			Municipal Castings
			Neenah Foundry
			Pinkerton Foundry
			US Foundry & Manufacturing
			Vulcan Foundry
C–533–807	701–TA–318	Sulfanilic Acid/India	R–M Industries
C–533–818	701–TA–388	Cut-to-Length Carbon Steel Plate/India	Bethlehem Steel
			CitiSteel USA Inc
			Geneva Steel
			Gulf States Steel
			IPSCO Steel
			National Steel
			Tuscaloosa Steel
			US Steel
			United Steelworkers of America
C–533–821	701–TA–405	Hot-Rolled Steel Products/India	Bethlehem Steel
			Gallatin Steel
			Independent Steelworkers
			IPSCO
			LTV Steel
			National Steel
			Nucor
			Rouge Steel Co
			Steel Dynamics
			US Steel
			United Steelworkers of America
			WCI Steel Inc
			Weirton Steel
			Wheeling-Pittsburgh Steel Corp
C–533–825	701–TA–415	Polyethylene Terephthalate Film, Sheet and Strip (PET Film)/India.	DuPont Teijin Films
			Mitsubishi Polyester Film LLC
			SKC America Inc
			Toray Plastics (America)
C–533–829	701–TA–432	Prestressed Concrete Steel Wire Strand/India	American Spring Wire Corp
			Insteel Wire Products Co
			Sivaco Georgia LLC
			Strand Tech Martin Inc
			Sumiden Wire Products Corp
C–533–839	701–TA–437	Carbazole Violet Pigment 23/India	Allegheny Color Corp
			Barker Fine Color Inc
			Clariant Corp
			Nation Ford Chemical Co
			Sun Chemical Co
C–533–844	701–TA–442	Certain Lined Paper School Supplies/India	Fay Paper Products Inc
			MeadWestvaco Consumer & Office Products
			Norcom Inc
			Pacon Corp
			Roaring Spring Blank Book Co
			Top Flight Inc
			United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (USW)
C–535–001	701–TA–202	Cotton Shop Towels/Pakistan	Milliken
C–549–818	701–TA–408	Hot-Rolled Steel Products/Thailand	Bethlehem Steel
			Gallatin Steel
			Independent Steelworkers
			IPSCO
			LTV Steel
			National Steel
			Nucor

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
C–560–806	701–TA–389	Cut-to-Length Carbon Steel Plate/Indonesia	Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel IPSCO Steel National Steel Tuscaloosa Steel US Steel United Steelworkers of America
C–560–813	701–TA–406	Hot-Rolled Steel Products/Indonesia	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
C–560–819	701–TA–443	Certain Lined Paper School Supplies/Indonesia	Fay Paper Products Inc MeadWestvaco Consumer & Office Products Norcom Inc Pacon Corp Roaring Spring Blank Book Co Top Flight Inc United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (USW)
C–580–602	701–TA–267	Top-of-the-Stove Stainless Steel Cooking Ware/Korea.	Farberware Regal Ware Revere Copper & Brass WearEver/Proctor Silex
C–580–818	701–TA–342	Cold-Rolled Carbon Steel Flat Products/Korea	Armco Steel Bethlehem Steel California Steel Industries Gulf States Steel Inland Steel Industries LTV Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
C–580–818	701–TA–350	Corrosion-Resistant Carbon Steel Flat Products/Korea.	Armco Steel Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries LTV Steel Lukens Steel National Steel Nextech Rouge Steel Co

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
C–580–835	701–TA–382	Stainless Steel Sheet and Strip/Korea	Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp J&L Specialty Steel North American Stainless United Steelworkers of America Zanesville Armco Independent Organization
C–580–837	701–TA–391	Cut-to-Length Carbon Steel Plate/Korea	Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel IPSCO Steel National Steel Tuscaloosa Steel US Steel United Steelworkers of America
C–580–842	701–TA–401	Structural Steel Beams/Korea	Northwestern Steel and Wire Nucor Nucor-Yamato Steel TXI–Chaparral Steel United Steelworkers of America
C–580–851	701–TA–431	DRAMs and DRAM Modules/Korea	Dominion Semiconductor LLC/Micron Technology Inc Infineon Technologies Richmond LP Micron Technology Inc
C–583–604	701–TA–268	Top-of-the-Stove Stainless Steel Cooking Ware/Taiwan.	Farberware Regal Ware Revere Copper & Brass WearEver/Proctor Silex
C–791–806	701–TA–379	Stainless Steel Plate in Coils/South Africa	Allegheny Ludlum Armco Steel J&L Specialty Steel Lukens Steel North American Stainless United Steelworkers of America
C–791–810	701–TA–407	Hot-Rolled Steel Products/South Africa	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A–331–802	731–TA–1065 ...	Certain Frozen Warmwater Shrimp and Prawns/Ecuador.	
A–351–838	731–TA–1063 ...	Certain Frozen Warmwater Shrimp and Prawns/Brazil.	
A–533–840	731–TA–1066 ...	Certain Frozen Warmwater Shrimp and Prawns/India.	
A–549–822	731–TA–1067 ...	Certain Frozen Warmwater Shrimp and Prawns/Thailand.	
A–552–802	731–TA–1068 ...	Certain Frozen Warmwater Shrimp and Prawns/Vietnam.	
A–570–893	731–TA–1064 ...	Certain Frozen Warmwater Shrimp and Prawns/China.	Petitioners/Supporters for all six cases listed: Abadie, Al J Abadie, Anthony

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Abner, Charles Abraham, Steven Abshire, Gabriel J Ackerman, Dale J Acosta, Darryl L Acosta, Jerry J Sr Acosta, Leonard C Acosta, Wilson Pula Sr Adam, Denise T Adam, Michael A Adam, Richard B Jr Adam, Sherry P Adam, William E Adam, Alcide J Jr Adams, Dudley Adams, Elizabeth L Adams, Ervin Adams, Ervin Adams, George E Adams, Hursy J Adams, James Arthur Adams, Kelly Adams, Lawrence J Jr Adams, Randy Adams, Ritchie Adams, Steven A Adams, Ted J Adams, Tim Adams, Whitney P Jr Agoff, Ralph J Aguilar, Rikardo Aguillard, Roddy G Alario, Don Ray Alario, Nat Alario, Pete J Alario, Timmy Albert, Craig J Albert, Junior J Alexander, Everett O Alexander, Robert F Jr Alexie, Benny J Alexie, Corkey A Alexie, Dolphy Alexie, Felix Jr Alexie, Gwendolyn Alexie, John J Alexie, John V Alexie, Larry J Sr Alexie, Larry Jr Alexie, Vincent L Jr Alexis, Barry S Alexis, Craig W Alexis, Micheal Alexis, Monique Alfonso, Anthony E Jr Alfonso, Jesse Alfonso, Nicholas Alfonso, Paul Anthony Alfonso, Randy Alfonso, Terry S Jr Alfonso, Vernon Jr Alfonso, Yvette Alimia, Angelo A Jr Allemand, Dean J Allen, Annie Allen, Carolyn Sue Allen, Jackie Allen, Robin Allen, Wayne Allen, Wilbur L Allen, Willie J III Allen, Willie Sr Alphonso, John

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Ancalade, Leo J Ancar, Claudene Ancar, Jerry T Ancar, Joe C Ancar, Merlin Sr Ancar, William Sr Ancelet, Gerald Ray Anderson, Andrew David Anderson, Ernest W Anderson, Jerry Anderson, John Anderson, Lynwood Anderson, Melinda Rene Anderson, Michael Brian Anderson, Ronald L Sr Anderson, Ronald Louis Jr Andonie, Miguel Andrews, Anthony R Andry, Janice M Andry, Rondey S Angelle, Louis Anglada, Eugene Sr Ansardi, Lester Anselmi, Darren Aparicio, Alfred Aparicio, David Aparicio, Ernest Arabie, Georgia P Arabie, Joseph Arcement, Craig J Arcement, Lester C Arcemont, Donald Sr Arceneaux, Matthew J Arceneaux, Michael K Areas, Christopher J Armbruster, John III Armbruster, Paula D Armstrong, Jude Jr Arnesen, George Arnold, Lonnie L Jr Arnona, Joseph T Arnondin, Robert Arthur, Brenda J Assavedo, Floyd Atwood, Gregory Kenneth Au, Chow D Au, Robert Aucoin, Dewey F Aucoin, Earl Aucoin, Laine A Aucoin, Perry J Austin, Dennis Austin, Dennis J Authement, Brice Authement, Craig L Authement, Dion J Authement, Gordon Authement, Lance M Authement, Larry Authement, Larry Sr Authement, Roger J Authement, Sterling P Autin, Bobby Autin, Bruce J Autin, Kenneth D Autin, Marvin J Autin, Paul F Jr Autin, Roy Avenel, Albert J Jr Ba Wells, Tran Thi Babb, Conny Babin, Brad Babin, Joey L

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Babin, Klint Babin, Molly Babin, Norman J Babineaux, Kirby Babineaux, Vicki Bach, Ke Van Bach, Reo Long Backman, Benny Badeaux, Todd Baham, Dewayne Bailey, Albert Bailey, Antoine III Bailey, David B Sr Bailey, Don Baker, Clarence Baker, Donald Earl Baker, James Baker, Kenneth Baker, Ronald J Balderas, Antonio Baldwin, Richard Prentiss Ballard, Albert Ballas, Barbara A Ballas, Charles J Baltz, John F Ban, John Bang, Bruce K Barbaree, Joe W Barbe, Mark A and Cindy Barber, Louie W Jr Barber, Louie W Sr Barbier, Percy T Barbour, Raymond A Bargainear, James E Barisich, George A Barisich, Joseph J Barnette, Earl Barnhill, Nathan Barrios, Clarence Barrios, Corbert J Barrios, Corbert M Barrios, David Barrios, John Barrios, Shane James Barrois, Angela Gail Barrois, Dana A Barrois, Tracy James Barrois, Wendell Jude Jr Barthe, Keith Sr Barthelemy, Allen M Barthelemy, John A Barthelemy, Rene T Sr Barthelemy, Walter A Jr Bartholomew, Mitchell Bartholomew, Neil W Bartholomew, Thomas E Bartholomew, Wanda C Basse, Donald J Sr Bates, Mark Bates, Ted Jr Bates, Vernon Jr Battle, Louis Baudoin, Drake J Baudoin, Murphy A Baudouin, Stephen Bauer, Gary Baye, Glen P Bean, Charles A Beazley, William E Becnel, Glenn J Becnel, Kent Beecher, Carold F Beechler, Ronald

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Bell, James E Bell, Ronald A Bellanger, Arnold Bellanger, Clifton Bellanger, Scott J Belsome, Derrell M Belsome, Karl M Bennett, Cecil A Jr Bennett, Gary Lynn Bennett, Irin Jr Bennett, James W Jr Bennett, Louis Benoit, Francis J Benoit, Nicholas L Benoit, Paula T Benoit, Tenna J Jr Benton, Walter T Berger, Ray W Bergeron, Alfred Scott Bergeron, Jeff Bergeron, Nolan A Bergeron, Ulysses J Bernard, Lamont L Berner, Mark J Berthelot, Gerard J Sr Berthelot, James A Berthelot, Myron J Bertrand, Jerl C Beverung, Keith J Bianchini, Raymond W Bickham, Leo E Bienvenu, Charles Biggs, Jerry W Sr Bigler, Delbert Billington, Richard Billiot, Alfredia Billiot, Arthur Billiot, Aubrey Billiot, Barell J Billiot, Betty Billiot, Bobby J Billiot, Brian K Billiot, Cassidy Billiot, Charles Sr Billiot, Chris J Sr Billiot, E J E Billiot, Earl W Sr Billiot, Ecton L Billiot, Emary Billiot, Forest Jr Billiot, Gerald Billiot, Harold J Billiot, Jacco A Billiot, Jake A Billiot, James Jr Billiot, Joseph S Jr Billiot, Laurence V Billiot, Leonard F Jr Billiot, Lisa Billiot, Mary L Billiot, Paul J Sr Billiot, Shirley L Billiot, Steve M Billiot, Thomas Adam Billiot, Thomas Sr Billiot, Wenceslaus Jr Billiott, Alexander J Biron, Yale Black, William C Blackston, Larry E Blackwell, Wade H III Blackwell, Wade H Jr Blanchard, Albert

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Blanchard, Andrew J Blanchard, Billy J Blanchard, Cyrus Blanchard, Daniel A Blanchard, Dean Blanchard, Douglas Jr Blanchard, Dwayne Blanchard, Elgin Blanchard, Gilbert Blanchard, Jade Blanchard, James Blanchard, John F Jr Blanchard, Katie Blanchard, Kelly Blanchard, Matt Joseph Blanchard, Michael Blanchard, Quentin Timothy Blanchard, Roger Sr Blanchard, Walton H Jr Bland, Quyen T Blouin, Roy A Blume, Jack Jr Bodden, Arturo Bodden, Jasper Bollinger, Donald E Bolotte, Darren W Bolton, Larry F Bondi, Paul J Bonvillain, Jimmy J Bonvillian, Donna M Boone, Clifton Felix Boone, Donald F II Boone, Donald F III (Ricky) Boone, Gregory T Boquet, Noriss P Jr Boquet, Wilfred Jr Bordelon, Glenn Sr Bordelon, James P Bordelon, Shelby P Borden, Benny Borne, Crystal Borne, Dina L Borne, Edward Joseph Jr Borne, Edward Sr Bosarge, Hubert Lawrence Bosarge, Robert Bosarge, Sandra Bosarge, Steve Boudlauch, Durel A Jr Boudoin, Larry Terrell Boudoin, Nathan Boudreaux, Brent J Boudreaux, Elvin J III Boudreaux, James C Jr Boudreaux, James N Boudreaux, Jessie Boudreaux, Leroy A Boudreaux, Mark Boudreaux, Paul Sr Boudreaux, Richard D Boudreaux, Ronald Sr Boudreaux, Sally Boudreaux, Veronica Boudwin, Dwayne Boudwin, Jewel James Sr Boudwin, Wayne Bouise, Norman Boulet, Irwin J Jr Boullion, Debra Bourg, Allen T Bourg, Benny Bourg, Chad J Bourg, Channon

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Bourg, Chris Bourg, Douglas Bourg, Glenn A Bourg, Jearmie Sr Bourg, Kent A Bourg, Mark Bourg, Nolan P Bourg, Ricky J Bourgeois, Albert P Bourgeois, Brian J Jr Bourgeois, Daniel Bourgeois, Dwayne Bourgeois, Jake Bourgeois, Johnny M Bourgeois, Johnny M Jr Bourgeois, Leon A Bourgeois, Louis A Bourgeois, Merrie E Bourgeois, Randy P Bourgeois, Reed Bourgeois, Webley Bourn, Chris Bourque, Murphy Paul Bourque, Ray Bousegard, Duvic Jr Boutte, Manuel J Jr Bouvier, Colbert A II Bouzigard, Dale J Bouzigard, Edgar J III Bouzigard, Eeris Bowers, Harold Bowers, Tommy Boyd, David E Sr Boyd, Elbert Boykin, Darren L Boykin, Thomas Carol Bradley, James Brady, Brian Brandhurst, Kay Brandhurst, Ray E Sr Brandhurst, Raymond J Braneff, David G Brannan, William P Branom, Donald James Jr Braud, James M Brazan, Frank J Breaud, Irvin F Jr Breaux, Barbara Breaux, Brian J Breaux, Charlie M Breaux, Clifford Breaux, Colin E Breaux, Daniel Jr Breaux, Larry J Breaux, Robert J Jr Breaux, Shelby Briscoe, Robert F Jr Britsch, L D Jr Broussard, Dwayne E Broussard, Eric Broussard, Keith Broussard, Larry Broussard, Mark A Broussard, Roger David Broussard, Roger R Broussard, Steve P Brown, Cindy B Brown, Colleen Brown, Donald G Brown, John W Brown, Paul R Brown, Ricky Brown, Toby H

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Bruce, Adam J Bruce, Adam J Jr Bruce, Bob R Bruce, Daniel M Sr Bruce, Eli T Sr Bruce, Emelda L Bruce, Gary J Sr Bruce, James P Bruce, Lester J Jr Bruce, Margie L Bruce, Mary P Bruce, Nathan Bruce, Robert Bruce, Russell Brudnock, Peter Sr Brunet, Elton J Brunet, Joseph A Brunet, Joseph A Brunet, Levy J Jr Brunet, Raymond Sr Bryan, David N Bryant, Ina Fay V Bryant, Jack D Sr Bryant, James Larry Buford, Ernest Bui, Ben Bui, Dich Bui, Dung Thi Bui, Huong T Bui, Ngan Bui, Nhuan Bui, Nuoi Van Bui, Tai Bui, Tieu Bui, Tommy Bui, Xuan and De Nguyen Bui, Xuanmai Bull, Delbert E Bundy, Belvina (Kenneth) Bundy, Kenneth Sr Bundy, Nicky Bundy, Ronald J Bundy, Ronnie J Buquet, John Jr Buras, Clayton M Buras, Leander Buras, Robert M Jr Buras, Waylon J Burlett, Elliott C Burlett, John C Jr Burnell, Charles B Burnell, Charles R Burnham, Deanna Lea Burns, Stuart E Burroughs, Lindsey Hilton Jr Burton, Ronnie Busby, Hardy E Busby, Tex H Busch, RC Bush, Robert A Bussey, Tyler Butcher, Dorothy Butcher, Rocky J Butler, Albert A Butler, Aline M Bychurch, Johnny Bychurch, Johnny Jr Cabanilla, Alex Caboz, Jose Santos Cacioppo, Anthony Jr Caddell, David Cadiere, Mae Quick Cadiere, Ronald J

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Cahill, Jack Caillouet, Stanford Jr Caison, Jerry Lane Jr Calcagno, Stephen Paul Sr Calderone, John S Callahan, Gene P Sr Callahan, Michael J Callahan, Russell Callais, Ann Callais, Franklin D Callais, Gary D Callais, Michael Callais, Michael Callais, Sandy Callais, Terrence Camardelle, Anna M Camardelle, Chris J Camardelle, David Camardelle, Edward J III Camardelle, Edward J Jr Camardelle, Harris A Camardelle, Knowles Camardelle, Noel T Camardelle, Tilman J Caminita, John A III Campo, Donald Paul Campo, Kevin Campo, Nicholas J Campo, Roy Campo, Roy Sr Camus, Ernest M Jr Canova, Carl Cantrelle, Alvin Cantrelle, Eugene J Cantrelle, Otis A Sr Cantrelle, Otis Jr (Buddy) Cantrelle, Philip A Cantrelle, Tate Joseph Canty, Robert Jamies Cao, Anna Cao, Billy Cao, Billy Viet Cao, Binh Quang Cao, Chau Cao, Dan Dien Cao, Dung Van Cao, Gio Van Cao, Heip A Cao, Linh Huyen Cao, Nghia Thi Cao, Nhieu V Cao, Si-Van Cao, Thanh Kim Cao, Tuong Van Carinhas, Jack G Jr Carl, Joseph Allen Carlos, Gregory Carlos, Irvin Carmadelle, David J Carmadelle, Larry G Carmadelle, Rudy J Carrere, Anthony T Jr Carrier, Larry J Caruso, Michael Casanova, David W Sr Cassagne, Alphonse G III Cassagne, Alphonse G IV Cassidy, Mark Casso, Joseph Castelin, Gilbert Castelin, Sharon Castellanos, Raul L Castelluccio, John A Jr

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Castille, Joshua Caulfield, Adolph Jr Caulfield, Hope Caulfield, James M Jr Caulfield, Jean Cepriano, Salvador Cerdes, Julius W Jr Cerise, Marla Chabert, John Chaisson, Dean J Chaisson, Henry Chaisson, Vincent A Chaix, Thomas B III Champagne, Brian Champagne, Harold P Champagne, Kenton Champagne, Leon J Champagne, Leroy A Champagne, Lori Champagne, Timmy D Champagne, Willard Champlin, Kim J Chance, Jason R Chancey, Jeff Chapa, Arturo Chaplin Robert G Sr Chaplin, Saxby Stowe Charles, Christopher Charpentier, Allen J Charpentier, Alvin J Charpentier, Daniel J Charpentier, Lawrence Charpentier, Linton Charpentier, Melanie Charpentier, Murphy Jr Charpentier, Robert J Chartier, Michelle Chau, Minh Huu Chauvin, Anthony Chauvin, Anthony P Jr Chauvin, Carey M Chauvin, David James Chauvin, James E Chauvin, Kimberly Kay Cheeks, Alton Bruce Cheers, Elwood Chenier, Ricky Cheramie, Alan Cheramie, Alan J Jr Cheramie, Alton J Cheramie, Berwick Jr Cheramie, Berwick Sr Cheramie, Daniel James Sr Cheramie, Danny Cheramie, David J Cheramie, David P Cheramie, Dickey J Cheramie, Donald Cheramie, Enola Cheramie, Flint Cheramie, Harold L Cheramie, Harry J Sr Cheramie, Harry Jr Cheramie, Harvey Jr Cheramie, Harvey Sr Cheramie, Henry J Sr Cheramie, James A Cheramie, James P Cheramie, Jody P Cheramie, Joey J Cheramie, Johnny Cheramie, Joseph A Cheramie, Lee Allen

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Cheramie, Linton J Cheramie, Mark A Cheramie, Murphy J Cheramie, Nathan A Sr Cheramie, Neddy P Cheramie, Nicky J Cheramie, Ojess M Cheramie, Paris P Cheramie, Robbie Cheramie, Rodney E Jr Cheramie, Ronald Cheramie, Roy Cheramie, Roy A Cheramie, Sally K Cheramie, Terry J Cheramie, Terry Jr Cheramie, Timmy Cheramie, Tina Cheramie, Todd M Cheramie, Tommy Cheramie, Wayne A Cheramie, Wayne A Jr Cheramie, Wayne F Sr Cheramie, Wayne J Cheramie, Webb Jr Chevalier, Mitch Chew, Thomas J Chhun, Samantha Chiasson, Jody J Chiasson, Manton P Jr Chiasson, Michael P Childress, Gordon Chisholm, Arthur Chisholm, Henry Jr Christen, David Jr Christen, Vernon Christmas, John T Jr Chung, Long V Ciaccio, Vance Cibilic, Bozidar Cieutat, John Cisneros, Albino Ciuffi, Michael L Clark, James M Clark, Jennings Clark, Mark A Clark, Ricky L Cobb, Michael A Cochran, Jimmy Coleman, Ernest Coleman, Freddie Jr Colletti, Rodney A Collier, Ervin J Collier, Wade Collins, Bernard J Collins, Bruce J Jr Collins, Donald Collins, Earline Collins, Eddie F Jr Collins, Jack Collins, Jack Collins, Julius Collins, Lawson Bruce Sr Collins, Lindy S Jr Collins, Logan A Jr Collins, Robert Collins, Timmy P Collins, Vendon Jr Collins, Wilbert Jr Collins, Woodrow Colson, Chris and Michelle Comardelle, Michael J Comeaux, Allen J

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Compeaux, Curtis J Compeaux, Gary P Compeaux, Harris Cone, Jody Contreras, Mario Cook, Edwin A Jr Cook, Edwin A Sr Cook, Joshua Cook, Larry R Sr Cook, Scott Cook, Theodore D Cooksey, Ernest Neal Cooper, Acy J III Cooper, Acy J Jr Cooper, Acy Sr Cooper, Christopher W Cooper, Jon C Cooper, Marla F Cooper, Vincent J Copeman, John R Corley, Ronald E Cornett, Eddie Cornwall, Roger Cortez, Brenda M Cortez, Cathy Cortez, Curtis Cortez, Daniel P Cortez, Edgar Cortez, Keith J Cortez, Leslie J Cosse, Robert K Coston, Clayton Cotsovolos, John Gordon Coulon, Allen J Jr Coulon, Allen J Sr Coulon, Amy M Coulon, Cleveland F Coulon, Darrin M Coulon, Don Coulon, Earline N Coulon, Ellis Jr Coursey, John W Courville, Ronnie P Cover, Darryl L Cowdrey, Michael Dudley Cowdrey, Michael Nelson Crain, Michael T Crawford, Bryan D Crawford, Steven J Creamer, Quention Credeur, Todd A Sr Credeur, Tony J Creppel, Carlton Creppel, Catherine Creppel, Craig Anthony Creppel, Freddy Creppel, Isadore Jr Creppel, Julinne G III Creppel, Kenneth Creppel, Kenneth Creppel, Nathan J Jr Creppell, Michel P Cristina, Charles J Crochet, Sterling James Crochet, Tony J Crosby, Benjy J Crosby, Darlene Crosby, Leonard W Jr Crosby, Ted J Crosby, Thomas Crum, Lonnie Crum, Tommy Lloyd Cruz, Jesus

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Cubbage, Melinda T Cuccia, Anthony J Cuccia, Anthony J Jr Cuccia, Kevin Cumbie, Bryan E Cure, Mike Curole, Keith J Curole, Kevin P Curole, Margaret B Curole, Willie P Jr Cutrer, Jason C Cvitanovich, T Daigle, Alfred Daigle, Cleve and Nona Daigle, David John Daigle, EJ Daigle, Glenn Daigle, Jamie J Daigle, Jason Daigle, Kirk Daigle, Leonard P Daigle, Lloyd Daigle, Louis J Daigle, Melanie Daigle, Michael J Daigle, Michael Wayne and JoAnn Daisy, Jeff Dale, Cleveland L Dang, Ba Dang, Dap Dang, David Dang, Duong Dang, Khang Dang, Khang and Tam Phan Dang, Loan Thi Dang, Minh Dang, Minh Van Dang, Son Dang, Tao Kevin Dang, Thang Duc Dang, Thien Van Dang, Thuong Dang, Thuy Dang, Van D Daniels, David Daniels, Henry Daniels, Leslie Danos, Albert Sr Danos, James A Danos, Jared Danos, Oliver J Danos, Ricky P Danos, Rodney Danos, Timothy A d'Antignac, Debi d'Antignac, Jack Dantin, Archie A Dantin, Mark S Sr Dantin, Stephen Jr Dao, Paul Dao, Vang Dao-Nguyen, Chrysti Darda, Albert L Jr Darda, Gertrude Darda, Herbert Darda, J C Darda, Jeremy Darda, Tammy Darda, Trudy Dardar, Alvin Dardar, Basile J Dardar, Basile Sr Dardar, Cindy

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Dardar, David Dardar, Donald S Dardar, Edison J Sr Dardar, Gayle Picou Dardar, Gilbert B Dardar, Gilbert Sr Dardar, Isadore J Jr Dardar, Jacqueline Dardar, Jonathan M Dardar, Lanny Dardar, Larry J Dardar, Many Dardar, Neal A Dardar, Norbert Dardar, Patti V Dardar, Percy B Sr Dardar, Rose Dardar, Rusty J Dardar, Samuel Dardar, Summersgill Dardar, Terry P Dardar, Toney M Jr Dardar, Toney Sr Dargis, Stephen M Dassau, Louis David, Philip J Jr Davis, Cliff Davis, Daniel A Davis, Danny A Davis, James Davis, John W Davis, Joseph D Davis, Michael Steven Davis, Ronald B Davis, William T Jr Davis, William Theron Dawson, JT de la Cruz, Avery T Dean, Ilene L Dean, John N Dean, Stephen DeBarge, Brian K DeBarge, Sherry DeBarge, Thomas W Decoursey, John Dedon, Walter Deere, Daryl Deere, David E Deere, Dennis H Defelice, Robin Defelice, Tracie L DeHart, Ashton J Sr Dehart, Bernard J Dehart, Blair Dehart, Clevis Dehart, Clevis Jr DeHart, Curtis P Sr Dehart, Eura Sr Dehart, Ferrell John Dehart, Leonard M DeHart, Troy DeJean, Chris N Jr DeJean, Chris N Sr Dekemel, Bonnie D Dekemel, Wm J Jr Delande, Paul Delande, Ten Chie Delatte, Michael J Sr Delaune, Kip M Delaune, Thomas J Delaune, Todd J Delcambre, Carroll A Delgado, Jesse

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Delino, Carlton Delino, Lorene Deloach, Stephen W Jr DeMoll, Herman J Jr DeMoll, Herman J Sr DeMoll, James C Jr DeMoll, Ralph DeMoll, Robert C DeMoll, Terry R DeMolle, Freddy DeMolle, Otis Dennis, Fred Denty, Steve Deroche, Barbara H Derouen, Caghe Deshotel, Rodney DeSilvey, David Despaux, Byron J Despaux, Byron J Jr Despaux, Glen A Despaux, Ken Despaux, Kerry Despaux, Suzanna Detillier, David E DeVaney, Bobby C Jr Dickey, Wesley Frank Diep, Vu Dinger, Anita Dinger, Corbert Sr Dinger, Eric Dingler, Mark H Dinh, Chau Thanh Dinh, Khai Duc Dinh, Lien Dinh, Toan Dinh, Vincent Dion, Ernest Dion, Paul A Dion, Thomas Autry Disalvo, Paul A Dismuke, Robert E Sr Ditcharo, Dominick III Dixon, David Do, Cuong V Do, Dan C Do, Dung V Do, Hai Van Do, Hieu Do, Hung V Do, Hung V Do, Johnny Do, Kiet Van Do, Ky Hong Do, Ky Quoc Do, Lam Do, Liet Van Do, Luong Van Do, Minh Van Do, Nghiep Van Do, Ta Do, Ta Phon Do, Than Viet Do, Thanh V Do, Theo Van Do, Thien Van Do, Tinh A Do, Tri Do, Vi V Doan, Anh Thi Doan, Joseph Doan, Mai Doan, Minh Doan, Ngoc

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Doan, Tran Van Domangue, Darryl Domangue, Emile Domangue, Mary Domangue, Michael Domangue, Paul Domangue, Ranzell Sr Domangue, Stephen Domangue, Westley Domingo, Carolyn Dominique, Amy R Dominque, Gerald R Donini, Ernest N Donnelly, David C Donohue, Holly M Dooley, Denise F Dopson, Craig B Dore, Presley J Dore, Preston J Jr Dorr, Janthan C Jr Doucet, Paul J Sr Downey, Colleen Doxey, Robert Lee Sr Doxey, Ruben A Doxey, William L Doyle, John T Drawdy, John Joseph Drury, Bruce W Jr Drury, Bruce W Sr Drury, Bryant J Drury, Eric S Drury, Helen M Drury, Jeff III Drury, Kevin Drury, Kevin S Sr Drury, Steve R Drury, Steven J Dubberly, James F Dubberly, James Michael Dubberly, James Michael Jr Dubberly, John J Dubois, Euris A Dubois, John D Jr Dubois, Lonnie J Duck, Kermit Paul Dudenhefer, Anthony Dudenhefer, Connie S Dudenhefer, Eugene A Dudenhefer, Milton J Jr Duet, Brad J Duet, Darrel A Duet, Guy J Duet, Jace J Duet, Jay Duet, John P Duet, Larson Duet, Ramie Duet, Raymond J Duet, Tammy B Duet, Tyrone Dufrene, Archie Dufrene, Charles Dufrene, Curt F Dufrene, Elson A Dufrene, Eric F Dufrene, Eric F Jr Dufrene, Eric John Dufrene, Golden J Dufrene, Jeremy M Dufrene, Juliette B Dufrene, Leroy J Dufrene, Milton J Dufrene, Ronald A Jr

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Dufrene, Ronald A Sr Dufrene, Scottie M Dufrene, Toby Dugar, Edward A II Dugas, Donald John Dugas, Henri J IV Duhe, Greta Duhe, Robert Duhon, Charles Duhon, Douglas P Duncan, Faye E Duncan, Gary Duncan, Loyde C Dunn, Bob Duong, Billy Duong, Chamroeun Duong, EM Duong, Ho Tan Phi Duong, Kong Duong, Mau Duplantis, Blair P Duplantis, David Duplantis, Frankie J Duplantis, Maria Duplantis, Teddy W Duplantis, Wedgir J Jr Duplessis, Anthony James Sr Duplessis, Bonnie S Duplessis, Clarence R Dupre, Brandon P Dupre, Cecile Dupre, David A Dupre, Davis J Jr Dupre, Easton J Dupre, Jimmie Sr Dupre, Linward P Dupre, Mary L Dupre, Michael J Dupre, Michael J Jr Dupre, Randall P Dupre, Richard A Dupre, Rudy P Dupre, Ryan A Dupre, Tony J Dupre, Troy A Dupree, Bryan Dupree, Derrick Dupree, Malcolm J Sr Dupuis, Clayton J Durand, Walter Y Dusang, Melvin A Duval, Denval H Sr Duval, Wayne Dyer, Nadine D Dyer, Tony Dykes, Bert L Dyson, Adley L Jr Dyson, Adley L Sr Dyson, Amy Dyson, Casandra Dyson, Clarence III Dyson, Jimmy Jr Dyson, Jimmy L Sr Dyson, Kathleen Dyson, Maricela Dyson, Phillip II Dyson, Phillip Sr Dyson, William Eckerd, Bill Edens, Angela Blake Edens, Donnie Edens, Jeremy Donald Edens, Nancy M

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Edens, Steven L Edens, Timothy Dale Edgar, Daniel Edgar, Joey Edgerson, Roosevelt Edwards,Tommy W III Ellerbee, Jody Duane Ellison, David Jr Encalade, Alfred Jr Encalade, Anthony T Encalade, Cary Encalade, Joshua C Encalade, Stanley A Enclade, Joseph L Enclade, Michael Sr and Jeannie Pitre Enclade, Rodney J Englade, Alfred Ennis, A L Jr Erickson, Grant G Erlinger, Carroll Erlinger, Gary R Eschete, Keith A Esfeller, Benny A Eskine, Kenneth Esponge, Ernest J Estaves, David Sr Estaves, Ricky Joseph Estay, Allen J Estay, Wayne Esteves, Anthony E Jr Estrada, Orestes Evans, Emile J Jr Evans, Kevin J Evans, Lester Evans, Lester J Jr Evans, Tracey J Sr Everson, George C Eymard, Brian P Sr Eymard, Jervis J and Carolyn B Fabiano, Morris C Fabra, Mark Fabre, Alton Jr Fabre, Ernest J Fabre, Kelly V Fabre, Peggy B Fabre, Sheron Fabre, Terry A Fabre, Wayne M Falcon, Mitchell J Falgout, Barney Falgout, Jerry P Falgout, Leroy J Falgout, Timothy J Fanguy, Barry G Fanning, Paul Jr Farris, Thomas J Fasone, Christopher J Fasone, William J Faulk, Lester J Favaloro, Thomas J Favre, Michael Jr Fazende, Jeffery Fazende, Thomas Fazende, Thomas G Fazzio, Anthony Fazzio, Douglas P Fazzio, Maxine J Fazzio, Steve Felarise, EJ Felarise, Wayne A Sr Fernandez, John Fernandez, Laudelino Ferrara, Audrey B

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Ficarino, Dominick Jr Fields, Bryan Fillinich, Anthony Fillinich, Anthony Sr Fillinich, Jack Fincher, Penny Fincher, William Fisch, Burton E Fisher, Kelly Fisher, Kirk Fisher, Kirk A Fitch, Adam Fitch, Clarence J Jr Fitch, Hanson Fitzgerald, Burnell Fitzgerald, Kirk Fitzgerald, Kirk D Fitzgerald, Ricky J Jr Fleming, John M Fleming, Meigs F Fleming, Mike Flick, Dana Flores, Helena D Flores, Thomas Flowers, Steve W Flowers, Vincent F Folse, David M Folse, Heath Folse, Mary L Folse, Ronald B Fonseca, Francis Sr Fontaine, William S Fontenot, Peggy D Ford, Judy Ford, Warren Wayne Foreman, Ralph Jr Foret, Alva J Foret, Billy J Foret, Brent J Foret, Glenn Foret, Houston Foret, Jackie P Foret, Kurt J Sr Foret, Lovelace A Sr Foret, Loveless A Jr Foret, Mark M Foret, Patricia C Forrest, David P Forsyth, Hunter Forsythe, John Fortune, Michael A France, George J Francis, Albert Franklin, James K Frankovich, Anthony Franks, Michael Frauenberger, Richard Wayne Frazier, David J Frazier, David M Frazier, James Frazier, Michael Frederick, Davis Frederick, Johnnie and Jeannie Fredrick, Michael Freeman, Arthur D Freeman, Darrel P Sr Freeman, Kenneth F Freeman, Larry Scott Frelich, Charles P Frelich, Floyd J Frelich, Kent Frerics, Doug Frerks, Albert R Jr

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Frickey, Darell Frickey, Darren Frickey, Dirk I Frickey, Eric J Frickey, Harry J Jr Frickey, Jimmy Frickey, Rickey J Frickey, Westley J Friloux, Brad Frisella, Jeanette M Frisella, Jerome A Jr Frost, Michael R Fruge, Wade P Gadson, James Gaines, Dwayne Gala, Christine Galjour, Jess J Galjour, Reed Gallardo, John W Gallardo, Johnny M Galliano, Anthony Galliano, Horace J Galliano, Joseph Sr Galliano, Logan J Galliano, Lynne L Galliano, Moise Jr Galloway, AT Jr Galloway, Jimmy D Galloway, Judy L Galloway, Mark D Galt, Giles F Gambarella, Luvencie J Ganoi, Kristine Garcia, Ana Maria Garcia, Anthony Garcia, Edward Garcia, Kenneth Garner, Larry S Gary, Dalton J Gary, Ernest J Gary, Leonce Jr Garza, Andrew Garza, Jose H Gaskill, Elbert Clinton and Sandra Gaspar, Timothy Gaspard, Aaron and Hazel C Gaspard, Dudley A Jr Gaspard, Leonard J Gaspard, Michael A Gaspard, Michael Sr Gaspard, Murry Gaspard, Murry A Jr Gaspard, Murry Sr Gaspard, Murvin Gaspard, Ronald Sr Gaspard, Ronald Wayne Jr Gaubert, Elizabeth Gaubert, Gregory M Gaubert, Melvin Gaudet, Allen J IV Gaudet, Ricky Jr Gauthier, Hewitt J Sr Gautreaux, William A Gay, Norman F Gay, Robert G Gazzier, Daryl G Gazzier, Emanuel A Gazzier, Wilfred E Gegenheimer, William F Geiling, James Geisman, Tony Gentry, Robert Gentry, Samuel W Jr

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			George, James J Jr Gerica, Clara Gerica, Peter Giambrone, Corey P Gibson, Eddie E Gibson, Joseph Gibson, Ronald F Gilden, Eddie Jr Gilden, Eddie Sr Gilden, Inez W Gilden, Wayne Gillikin, James D Girard, Chad Paul Giroir, Mark S Gisclair, Anthony J Gisclair, Anthony Joseph Sr Gisclair, August Gisclair, Dallas J Sr Gisclair, Doyle A Gisclair, Kip J Gisclair, Ramona D Gisclair, Wade Gisclair, Walter Glover, Charles D Glynn, Larry Goetz, George Goings, Robert Eugene Golden, George T Golden, William L Gollot, Brian Gollot, Edgar R Gonzales, Arnold Jr Gonzales, Mrs Cyril E Jr Gonzales, Rene R Gonzales, Rudolph S Jr Gonzales, Rudolph S Sr Gonzales, Sylvia A Gonzales, Tim J Gonzalez, Jorge Jr Gonzalez, Julio Gordon, Donald E Gordon, Patrick Alvin Gore, Henry H Gore, Isabel Gore, Pam Gore, Thomas L Gore, Timothy Ansel Gottschalk, Gregory Gourgues, Harold C Jr Goutierrez, Tony C Govea, Joaquin Graham, Darrell Graham, Steven H Granger, Albert J Sr Granich, James Granier, Stephen J Grass, Michael Graves, Robert N Sr Gray, Jeannette Gray, Monroe Gray, Shirley E Gray, Wayne A Sr Graybill, Ruston Green, Craig X Green, James W Green, James W Jr Green, Shaun Greenlaw, W C Jr Gregoire, Ernest L Gregoire, Rita M Gregory, Curtis B Gregory, Mercedes E Grice, Raymond L Jr

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Griffin, Alden J Sr Griffin, Craig Griffin, David D Griffin, Elvis Joseph Jr Griffin, Faye Griffin, Faye Ann Griffin, Jimmie J Griffin, Nolty J Griffin, Rickey Griffin, Sharon Griffin, Timothy Griffin, Troy D Groff, Alfred A Groff, John A Groover, Hank Gros, Brent J Sr Gros, Craig J Gros, Danny A Gros, Gary Sr Gros, Junius A Jr Gros, Keven Gros, Michael A Gross, Homer Grossie, Janet M Grossie, Shane A Grossie, Tate Grow, Jimmie C Guenther, John J Guenther, Raphael Guerra, Bruce Guerra, Chad L Guerra, Fabian C Guerra, Guy A Guerra, Jerry V Sr Guerra, Kurt P Sr Guerra, Ricky J Sr Guerra, Robert Guerra, Ryan Guerra, Troy A Guerra, William Jr Guidroz, Warren J Guidry, Alvin A Guidry, Andy J Guidry, Arthur Guidry, Bud Guidry, Calvin P Guidry, Carl J Guidry, Charles J Guidry, Chris J Guidry, Clarence P Guidry, Clark Guidry, Clint Guidry, Clinton P Jr Guidry, Clyde A Guidry, David Guidry, Dobie Guidry, Douglas J Sr Guidry, Elgy III Guidry, Elgy Jr Guidry, Elwin A Jr Guidry, Gerald A Guidry, Gordon Jr Guidry, Guillaume A Guidry, Harold Guidry, Jason Guidry, Jessie J Guidry, Jessie Joseph Guidry, Jonathan B Guidry, Joseph T Jr Guidry, Keith M Guidry, Kenneth J Guidry, Kerry A Guidry, Marco

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Guidry, Maurin T and Tamika Guidry, Michael J Guidry, Nolan J Sr Guidry, Randy Peter Sr Guidry, Rhonda S Guidry, Robert C Guidry, Robert Joseph Guidry, Robert Wayne Guidry, Roger Guidry, Ronald Guidry, Roy Anthony Guidry, Roy J Guidry, Tammy Guidry, Ted Guidry, Thomas P Guidry, Timothy Guidry, Troy Guidry, Troy Guidry, Ulysses Guidry, Vicki Guidry, Wayne J Guidry, Wyatt Guidry, Yvonne Guidry-Calva, Holly A Guilbeaux, Donald J Guilbeaux, Lou Guillie, Shirley Guillory, Horace H Guillot, Benjamin J Jr Guillot, Rickey A Gulledge, Lee Gutierrez, Anita Guy, Jody Guy, Kimothy Paul Guy, Wilson Ha, Cherie Lan Ha, Co Dong Ha, Lai Thuy Thi Ha, Lyanna Hadwall, John R Hafford, Johnny Hagan, Jules Hagan, Marianna Haiglea, Robbin Richard Hales, William E Halili, Rhonda L Hall, Byron S Hall, Darrel T Sr Hall, Lorrie A Hammer, Michael P Hammock, Julius Michael Hancock, Jimmy L Handlin, William Sr Hang, Cam T Hansen, Chris Hansen, Eric P Hanson, Edmond A Harbison, Louis Hardee, William P Hardison, Louis Hardy John C Hardy, Sharon Harmon, Michelle Harrington, George J Harrington, Jay Harris, Bobby D Harris, Buster Harris, Jimmy Wayne Sr Harris, Johnny Ray Harris, Kenneth A Harris, Ronnie Harris, Susan D Harris, William

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Harrison, Daniel L Hartmann, Leon M Jr Hartmann, Walter Jr Hattaway, Errol Henry Haycock, Kenneth Haydel, Gregory Hayes, Clinton Hayes, Katherine F Hayes, Lod Jr Hean, Hong Heathcock, Walter Jr Hebert, Albert Joseph Hebert, Bernie Hebert, Betty Jo Hebert, Chris Hebert, Craig J Hebert, David Hebert, David Jr Hebert, Earl J Hebert, Eric J Hebert, Jack M Hebert, Johnny Paul Hebert, Jonathan Hebert, Jules J Hebert, Kim M Hebert, Lloyd S III Hebert, Michael J Hebert, Myron A Hebert, Norman Hebert, Patrick Hebert, Patrick A Hebert, Pennington Jr Hebert, Philip Hebert, Robert A Hebert, Terry W Hedrick, Gerald J Jr Helmer, Claudia A Helmer, Gerry J Helmer, Herman C Jr Helmer, Kenneth Helmer, Larry J Sr Helmer, Michael A Sr Helmer, Rusty L Helmer, Windy Hemmenway, Jack Henderson, Brad Henderson, Curtis Henderson, David A Jr Henderson, David A Sr Henderson, Johnny Henderson, Olen Henderson, P Loam Henry, Joanne Henry, Rodney Herbert, Patrick and Terry Hereford, Rodney O Jr Hereford, Rodney O Sr Hernandez, Corey Herndon, Mark Hertel, Charles W Hertz, Edward C Sr Hess, Allen L Sr Hess, Henry D Jr Hess, Jessica R Hess, Wayne B Hewett, Emma Hewett, James Hickman, John Hickman, Marvin Hicks, Billy M Hicks, James W Hicks, Larry W Hicks, Walter R

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Hien, Nguyen Higgins, Joseph J III Hill, Darren S Hill, Joseph R Hill, Sharon Hill, Willie E Jr Hills, Herman W Hingle, Barbara E Hingle, Rick A Hingle, Roland T Jr Hingle, Roland T Sr Hingle, Ronald J Hinojosa, R Hinojosa, Randy Hinojosa, Ricky A Hipps, Nicole Marie Ho, Dung Tan Ho, Hung Ho, Jennifer Ho, Jimmy Ho, Lam Ho, Nam Ho, Nga T Ho, O Ho, Sang N Ho, Thanh Quoc Ho, Thien Dang Ho, Tien Van Ho, Tri Tran Hoang, Dung T Hoang, Hoa T and Tam Hoang Hoang, Huy Van Hoang, Jennifer Vu Hoang, John Hoang, Julie Hoang, Kimberly Hoang, Linda Hoang, Loan Hoang, San Ngoc Hoang, Tro Van Hoang, Trung Kim Hoang, Trung Tuan Hoang, Vincent Huynh Hodges, Ralph W Hoffpaviiz, Harry K Holland, Vidal Holler, Boyce Dwight Jr Hollier, Dennis J Holloway, Carl D Hong, Tai Van Hood, Malcolm Hopton, Douglas Horaist, Shawn P Hostetler, Warren L II Hotard, Claude Hotard, Emile J Jr Howard, Jeff Howerin, Billy Sr Howerin, Wendell Sr Hubbard, Keith Hubbard, Perry III Huber, Berry T Huber, Charles A Huck, Irma Elaine Huck, Steven R Huckabee, Harold Hue, Patrick A Hughes, Brad J Hults, Thomas Hutcherson, Daniel J Hutchinson, Douglas Hutchinson, George D Hutchinson, William H

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Hutto, Cynthia E Hutto, Henry G Jr Huynh, Chien Thi Huynh, Dong Xuan Huynh, Dung Huynh, Dung V Huynh, Hai Huynh, Hai Huynh, Hai Van Huynh, Hoang D Huynh, Hoang Van Huynh, Hung Huynh, James N Huynh, Johhny Hiep Huynh, Johnnie Huynh, Kim Huynh, Lay Huynh, Long Huynh, Mack Van Huynh, Mau Van Huynh, Minh Huynh, Minh Van Huynh, Nam Van Huynh, Thai Huynh, Tham Thi Huynh, Thanh Huynh, The V Huynh, Tri Huynh, Truc Huynh, Tu Huynh, Tu Huynh, Tung Van Huynh, Van X Huynh, Viet Van Huynh, Vuong Van Hymel, Joseph Jr Hymel, Michael D Hymel, Nolan J Sr Ingham, Herbert W Inglis, Richard M Ingraham, Joseph S Ingraham, Joyce Ipock, Billy Ipock, William B Ireland, Arthur Allen Iver, George Jr Jackson, Alfred M Jackson, Carl John Jackson, David Jackson, Eugene O Jackson, Glenn C Jr Jackson, Glenn C Sr Jackson, James Jerome Jackson, John D Jackson, John Elton Sr Jackson, Levi Jackson, Nancy L Jackson, Robert W Jackson, Shannon Jackson, Shaun C Jackson, Steven A Jacob, Ronald R Jacob, Warren J Jr Jacobs, L Anthony Jacobs, Lawrence F Jarreau, Billy and Marilyn Jarvis, James D Jaye, Emma Jeanfreau, Vincent R Jefferies, William Jemison, Timothy Michael Sr Jennings, Jacob Joffrion, Harold J Jr

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Johnson, Albert F Johnson, Ashley Lamar Johnson, Bernard Jr Johnson, Brent W Johnson, Bruce Warem Johnson, Carl S Johnson, Carolyn Johnson, Clyde Sr Johnson, David G Johnson, David Paul Johnson, Gary Allen Sr Johnson, George D Johnson, Michael A Johnson, Randy J Johnson, Regenia Johnson, Robert Johnson, Ronald Ray Sr Johnson, Steve Johnson, Thomas Allen Jr Johnston, Ronald Joly, Nicholas J Jr Jones, Charles Jones, Clinton Jones, Daisy Mae Jones, Jeffery E Jones, Jerome N Sr Jones, John W Jones, Larry Jones, Len Jones, Michael G Sr Jones, Paul E Jones, Perry T Sr Jones, Ralph William Jones, Richard G Sr Jones, Stephen K Jones, Wayne Joost, Donald F Jordan, Dean Jordan, Hubert William III (Bert) Jordan, Hurbert W Jr Judalet, Ramon G Judy, William Roger Julian, Ida Julian, John I Sr Juneau, Anthony Sr Juneau, Bruce Juneau, Robert A Jr and Laura K Jurjevich, Leander J Kain, Jules B Sr Kain, Martin A Kalliainen, Dale Kalliainen, Richard Kang, Chamroeun Kang, Sambo Kap, Brenda Keen, Robert Steven Keenan, Robert M Kellum, Kenneth Sr Kellum, Larry Gray Sr Kellum, Roxanne Kelly, Roger B Kelly, Thomas E Kendrick, Chuck J Kennair, Michael S Kennedy, Dothan Kenney, David Jr Kenney, Robert W Kent, Michael A Keo, Bunly Kerchner, Steve Kern, Thurmond Khin, Sochenda Khui, Lep and Nga Ho

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Kidd, Frank Kiesel, Edward C and Lorraine T Kiff, Hank J Kiff, Melvin Kiffe, Horace Kim, Puch Kimbrough, Carson Kim-Tun, Soeun King, Andy A King, Donald Jr King, James B King, Thornell King, Wesley Kit, An Kizer, Anthony J Kleimann, Robert Knapp, Alton P Jr Knapp, Alton P Sr Knapp, Ellis L Jr Knapp, Melvin L Knapp, Theresa Knecht, Frederick Jr Knezek, Lee Knight, George Knight, Keith B Knight, Robert E Koch, Howard J Kong, Seng Konitz, Bobby Koo, Herman Koonce, Curtis S Koonce, Howard N Kopszywa, Mark L Kopszywa, Stanley J Kotulja, Stejepan Kraemer, Bridget Kraemer, Wilbert J Kraemer, Wilbert Jr Kramer, David Krantz, Arthur Jr Krantz, Lori Kraver, C W Kreger, Ronald A Sr Kreger, Roy J Sr Kreger, Ryan A Krennerich, Raymond A Kroke, Stephen E Kruth, Frank D Kuchler, Alphonse L III Kuhn, Bruce A Sr Kuhn, Gerard R Jr Kuhn, Gerard R Sr Kuhns, Deborah LaBauve, Kerry LaBauve, Sabrina LaBauve, Terry LaBiche, Todd A LaBove, Carroll LaBove, Frederick P Lachica, Jacqueline Lachico, Douglas Lacobon, Tommy W Jr Lacobon, Tony C LaCoste, Broddie LaCoste, Carl LaCoste, Dennis E LaCoste, Grayland J LaCoste, Malcolm Jr LaCoste, Melvin LaCoste, Melvin W Jr LaCoste, Ravin J Jr LaCoste, Ravin Sr Ladner, Clarence J III

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Ladson, Earlene G LaFont, Douglas A Sr LaFont, Edna S LaFont, Jackin LaFont, Noces J Jr LaFont, Weyland J Sr LaFrance, Joseph T Lagarde, Frank N Lagarde, Gary Paul Lagasse, Michael F Lai, Hen K Lai, Then Lam, Cang Van Lam, Cui Lam, Dong Van Lam, Hiep Tan Lam, Lan Van Lam, Lee Phenh Lam, Phan Lam, Qui Lam, Sochen Lam, Tai Lam, Tinh Huu Lambas, Jessie J Sr Lanclos, Paul Landry, David A Landry, Dennis J Landry, Edward N Jr Landry, George Landry, George M Landry, James F Landry, Jude C Landry, Robert E Landry, Ronald J Landry, Samuel J Jr Landry, Tracy Lane, Daniel E Lapeyrouse, Lance M Lapeyrouse, Rosalie Lapeyrouse, Tillman Joseph LaRive, James L Jr LaRoche, Daniel S Lasseigne, Betty Lasseigne, Blake Lasseigne, Floyd Lasseigne, Frank Lasseigne, Harris Jr Lasseigne, Ivy Jr Lasseigne, Jefferson Lasseigne, Jefferson P Jr Lasseigne, Johnny J Lasseigne, Marlene Lasseigne, Nolan J Lasseigne, Trent Lat, Chhiet Latapie, Charlotte A Latapie, Crystal Latapie, Jerry Latapie, Joey G Latapie, Joseph Latapie, Joseph F Sr Latapie, Travis Latiolais, Craig J Latiolais, Joel Lau, Ho Thanh Laughlin, James G Laughlin, James Mitchell Laurent, Yvonne M Lavergne, Roger Lawdros, Terrance Jr Layrisson, Michael A III Le, Amanda Le, An Van

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Le, Ben Le, Binh T Le, Cheo Van Le, Chinh Thanh Le, Chinh Thanh and Yen Vo Le, Cu Thi Le, Dai M Le, Dale Le, David Rung Le, Du M Le, Duc V Le, Duoc M Le, Hien V Le, Houston T Le, Hung Le, Jimmy Le, Jimmy and Hoang Le, Khoa Le, Kim Le, Ky Van Le, Lang Van Le, Lily Le, Lisa Tuyet Thi Le, Loi Le, Minh Van Le, Muoi Van Le, My Le, My V Le, Nam and Xhan-Minh Le Le, Nam Van Le, Nhieu T Le, Nhut Hoang Le, Nu Thi Le, Phuc Van Le, Que V Le, Quy Le, Robert Le, Sam Van Le, Sau V Le, Son Le, Son Le, Son H Le, Son Quoc Le, Son Van Le, Su Le, Tam V Le, Thanh Huong Le, Tong Minh Le, Tony Le, Tracy Lan Chi Le, Tuan Nhu Le, Viet Hoang Le, Vui Leaf, Andrew Scott Leary, Roland LeBeauf, Thomas LeBlanc, Donnie LeBlanc, Edwin J LeBlanc, Enoch P LeBlanc, Gareth R III LeBlanc, Gareth R Jr LeBlanc, Gerald E LeBlanc, Hubert C LeBlanc, Jerald LeBlanc, Jesse Jr LeBlanc, Keenon Anthony LeBlanc, Lanvin J LeBlanc, Luke A LeBlanc, Marty J LeBlanc, Marty J Jr LeBlanc, Mickel J LeBlanc, Robert Patrick LeBlanc, Scotty M

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			LeBlanc, Shelton LeBlanc, Terry J LeBoeuf, Brent J LeBoeuf, Emery J LeBoeuf, Joseph R LeBoeuf, Tammy Y LeBouef, Dale LeBouef, Edward J LeBouef, Ellis J Jr LeBouef, Gillis LeBouef, Jimmie LeBouef, Leslie LeBouef, Lindy J LeBouef, Micheal J LeBouef, Raymond LeBouef, Tommy J LeBouef, Wiley Sr LeBourgeois, Stephen A LeCompte, Alena LeCompte, Aubrey J LeCompte, Etha LeCompte, Jesse C Jr LeCompte, Jesse Jr LeCompte, Jesse Sr LeCompte, Lyle LeCompte, Patricia F LeCompte, Todd LeCompte, Troy A Sr Ledet, Brad Ledet, Bryan Ledet, Carlton Ledet, Charles J Ledet, Jack A Ledet, Kenneth A Ledet, Mark Ledet, Maxine B Ledet, Mervin Ledet, Phillip John Ledoux, Dennis Ledwig, Joe J Lee, Carl Lee, James K Lee, Marilyn Lee, Otis M Jr Lee, Raymond C Lee, Robert E Lee, Steven J Leek, Mark A LeGaux, Roy J Jr Legendre, Kerry Legendre, Paul Leger, Andre LeGros, Alex M LeJeune, Philip Jr LeJeune, Philip Sr LeJeune, Ramona V LeJeunee, Debbie LeJuine, Eddie R LeLand, Allston Bochet Leland, Rutledge B III Leland, Rutledge B Jr LeLeaux, David Leleux, Kevin J Lemoine, Jeffery Jr Leonard, Dan Leonard, Dexter J Jr Leonard, Micheal A Lepine, Leroy L Lesso, Rudy Jr Lester, Shawn Levron, Dale T Levy, Patrick T Lewis, Kenneth

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Lewis, Mark Steven
			Libersat, Anthony R
			Libersat, Kim
			Licatino, Daniel Jr
			Lichenstein, Donald L
			Lilley, Douglas P
			Lim, Chhay
			Lim, Koung
			Lim, Tav Seng
			Linden, Eric L
			Liner, Claude J Jr
			Liner, Harold
			Liner, Jerry
			Liner, Kevin
			Liner, Michael B Sr
			Liner, Morris T Jr
			Liner, Morris T Sr
			Liner, Tandy M
			Linh, Pham
			Linwood, Dolby
			Lirette, Alex J Sr
			Lirette, Bobby and Sheri
			Lirette, Chester Patrick
			Lirette, Daniel J
			Lirette, Dean J
			Lirette, Delvin J Jr
			Lirette, Delvin Jr
			Lirette, Desaire J
			Lirette, Eugis P Sr
			Lirette, Guy A
			Lirette, Jeannie
			Lirette, Kern A
			Lirette, Ron C
			Lirette, Russell (Chico) Jr
			Lirette, Shaun Patrick
			Lirette, Terry J Sr
			Little, William A
			Little, William Boyd
			Liv, Niem S
			Livaudais, Ernest J
			Liverman, Harry R
			LoBue, Michael Anthony Sr
			Locascio, Dustin
			Lockhart, William T
			Lodrigue, Jimmy A
			Lodrigue, Kerry
			Lombardo, Joseph P
			Lombas, James A Jr
			Lombas, Kim D
			Londrie, Harley
			Long, Cao Thanh
			Long, Dinh
			Long, Robert
			Longo, Ronald S Jr
			Longwater, Ryan Heath
			Loomer, Rhonda
			Lopez, Celestino
			Lopez, Evelio
			Lopez, Harry N
			Lopez, Ron
			Lopez, Scott
			Lopez, Stephen R Jr
			Lord, Michael E Sr
			Loupe, George Jr
			Loupe, Ted
			Lovell, Billy
			Lovell, Bobby Jason
			Lovell, Bradford John
			Lovell, Charles J Jr
			Lovell, Clayton
			Lovell, Douglas P
			Lovell, Jacob G
			Lovell, Lois

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Lovell, Slade M Luke, Bernadette C Luke, David Luke, Dustan Luke, Henry Luke, Jeremy Paul Luke, Keith J Luke, Patrick A Luke, Patrick J Luke, Paul Leroy Luke, Rudolph J Luke, Samantha Luke, Sidney Jr Luke, Terry Patrick Jr Luke, Terry Patrick Sr Luke, Timothy Luke, Wiltz J Lund, Ora G Luneau, Ferrell J Luong, Kevin Luong, Thu X Luscy, Lydia Luscy, Richard Lutz, William A Luu, Binh Luu, Vinh Luu, Vinh V Ly, Bui Ly, Hen Ly, Hoc Ly, Kelly D Ly, Nu Ly, Sa Ly, Ven Lyall, Rosalie Lycett, James A Lyons, Berton J Lyons, Berton J Sr Lyons, Jack Lyons, Jerome M Mackey, Marvin Sr Mackie, Kevin L Maggio, Wayne A Magwood, Edwin Wayne Mai, Danny V Mai, Lang V Mai, Tai Mai, Trach Xuan Maise, Rubin J Maise, Todd Majoue, Ernest J Majoue, Nathan L Malcombe, David Mallett, Irvin Ray Mallett, Jimmie Mallett, Lawrence J Mallett, Mervin B Mallett, Rainbow Mallett, Stephney Malley, Ned F Jr Mamolo, Charles H Sr Mamolo, Romeo C Jr Mamolo, Terry A Mancera, Jesus Manuel, Joseph R Manuel, Shon Mao, Chandarasy Mao, Kim Marcel, Michelle Marchese, Joe Jr Mareno, Ansley Mareno, Brent J Mareno, Kenneth L

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Marie, Allen J Marie, Marty Marmande, Al Marmande, Alidore Marmande, Denise Marquize, Heather Marquizz, Kip Marris, Roy C Jr Martin, Darren Martin, Dean J Martin, Dennis Martin, Jody W Martin, John F III Martin, Michael A Martin, Nora S Martin, Rod J Martin, Roland J Jr Martin, Russel J Sr Martin, Sharon J Martin, Tanna G Martin, Wendy Martinez, Carl R Martinez, Henry Martinez, Henry Joseph Martinez, Lupe Martinez, Michael Martinez, Rene J Mason, James F Jr Mason, Johnnie W Mason, Luther Mason, Mary Lois Mason, Percy D Jr Mason, Walter Matherne, Anthony Matherne, Blakland Sr Matherne, Bradley J Matherne, Claude I Jr Matherne, Clifford P Matherne, Curlis J Matherne, Forest J Matherne, George J Matherne, Glenn A Matherne, Grace L Matherne, James C Matherne, James J Jr Matherne, James J Sr Matherne, Joey A Matherne, Keith Matherne, Larry Jr Matherne, Louis M Sr Matherne, Louis Michael Matherne, Nelson Matherne, Thomas G Matherne, Thomas G Jr Matherne, Thomas Jr Matherne, Thomas M Sr Matherne, Wesley J Mathews, Patrick Mathurne, Barry Matte, Martin J Sr Mauldin, Johnny Mauldin, Mary Mauldin, Shannon Mavar, Mark D Mayeux, Lonies A Jr Mayeux, Roselyn P Mayfield, Gary Mayfield, Henry A Jr Mayfield, James J III Mayon, Allen J Mayon, Wayne Sr McAnespy, Henry McAnespy, Louis

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			McCall, Marcus H McCall, R Terry Sr McCarthy, Carliss McCarthy, Michael McCauley, Byron Keith McCauley, Katrina McClantoc, Robert R and Debra McClellan, Eugene Gardner McCormick, Len McCuiston, Denny Carlton McDonald, Allan McElroy, Harry J McFarlain, Merlin J Jr McGuinn, Dennis McIntosh, James Richard McIntyre, Michael D McIver, John H Jr McKendree, Roy McKenzie, George B McKinzie, Bobby E McKoin, Robert McKoin, Robert F Jr McLendon, Jonathon S McNab, Robert Jr McQuaig, Don W McQuaig, Oliver J Medine, David P Mehaffey, John P Melancon, Brent K Melancon, Neva Melancon, Rickey Melancon, Roland Jr Melancon, Roland T Jr Melancon, Sean P Melancon, Terral J Melancon, Timmy J Melanson, Ozimea J III Melerine, Angela Melerine, Brandon T Melerine, Claude A Melerine, Claude A Jr Melerine, Dean J Melerine, Eric W Jr Melerine, John D Sr Melerine, Linda C Melerine, Raymond Joseph Melford, Daniel W Sr Mello, Nelvin Men, Sophin Menendez, Wade E Menesses, Dennis Menesses, James H Menesses, Jimmy Menesses, Louis Menge, Lionel A Menge, Vincent J Mercy, Dempsey Merrick, Harold A Merrick, Kevin Sr Merritt, Darren Sr Messer, Chase Meyers, Otis J Miarm, Soeum Michel, Steven D Middleton, Dan Sr Migues, Henry Migues, Kevin L Sr Milam, Ricky Miles, Ricky David Miley, Donna J Militello, Joseph Miller, David W Miller, Fletcher N

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Miller, James A Miller, Larry B Miller, Mabry Allen Jr Miller, Michael E Miller, Michele K Miller, Randy A Miller, Rhonda E Miller, Wayne Millet, Leon B Millington, Donnie Millington, Ronnie Millis, Moses Millis, Raeford Millis, Timmie Lee Mine, Derrick Miner, Peter G Minh, Kha Minh, Phuc-Truong Mitchell, Ricky Allen Mitchell, Todd Mitchum, Francis Craig Mixon, G C Mobley, Bryan A Mobley, Jimmy Sr Mobley, Robertson Mock, Frank Sr Mock, Frankie E Jr Mock, Jesse R II Mock, Terry Lyn Molero, Louis F III Molero, Louis Frank Molinere, Al L Molinere, Floyd Molinere, Roland Jr Molinere, Stacey Moll, Angela Moll, Jerry J Jr Moll, Jonathan P Moll, Julius J Moll, Randall Jr Mollere, Randall Mones, Philip J Jr Mones, Tino Moody, Guy D Moore, Carl Stephen Moore, Curtis L Moore, Kenneth Moore, Richard Moore, Willis Morales, Anthony Morales, Clinton A Morales, Daniel Jr Morales, Daniel Sr Morales, David Morales, Elwood J Jr Morales, Eugene J Jr Morales, Eugene J Sr Morales, Kimberly Morales, Leonard L Morales, Phil J Jr Morales, Raul Moran, Scott Moreau, Allen Joseph Moreau, Berlin J Sr Moreau, Daniel R Moreau, Hubert J Moreau, Mary Moreau, Rickey J Sr Morehead, Arthur B Jr Moreno, Ansley Morgan, Harold R Morici, John Morris, Herbert Eugene

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Morris, Jesse A Morris, Jesse A Sr Morris, Preston Morrison, Stephen D Jr Morton, Robert A Morvant, Keith M Morvant, Patsy Lishman Moschettieri, Chalam Moseley, Kevin R Motley, Michele Mouille, William L Mouton, Ashton J Moveront, Timothy Mund, Mark Murphy, Denis R Muth, Gary J Sr Myers, Joseph E Jr Na, Tran Van Naccio, Andrew Nacio, Lance M Nacio, Noel Nacio, Philocles J Sr Naquin, Alton J Naquin, Andrew J Sr Naquin, Antoine Jr Naquin, Autry James Naquin, Bobby J and Sheila Naquin, Bobby Jr Naquin, Christine Naquin, Dean J Naquin, Donna P Naquin, Earl Naquin, Earl L Naquin, Freddie Naquin, Gerald Naquin, Henry Naquin, Irvin J Naquin, Jerry Joseph Jr Naquin, Kenneth J Jr Naquin, Kenneth J Sr Naquin, Linda L Naquin, Lionel A Jr Naquin, Mark D Jr Naquin, Marty J Sr Naquin, Milton H IV Naquin, Oliver A Naquin, Robert Naquin, Roy A Naquin, Vernon Navarre, Curtis J Navero, Floyd G Jr Neal, Craig A Neal, Roy J Jr Neely, Bobby H Nehlig, Raymond E Sr Neil, Dean Neil, Jacob Neil, Julius Neil, Robert J Jr Neil, Tommy Sr Nelson, Billy J Sr Nelson, Deborah Nelson, Elisha W Nelson, Ernest R Nelson, Faye Nelson, Fred H Sr Nelson, Gordon Kent Sr Nelson, Gordon W III Nelson, Gordon W Jr Nelson, John Andrew Nelson, William Owen Jr Nelton, Aaron J Jr Nelton, Steven J

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Nettleton, Cody Newell, Ronald B Newsome, Thomas E Newton, Paul J Nghiem, Billy Ngo, Chuong Van Ngo, Duc Ngo, Hung V Ngo, Liem Thanh Ngo, Maxie Ngo, The T Ngo, Truong Dinh Ngo, Van Lo Ngo, Vu Hoang Ngoc, Lam Lam Ngu,Thoi Nguyen, Amy Nguyen, An Hoang Nguyen, Andy Dung Nguyen, Andy T Nguyen, Anh and Thanh D Tiet Nguyen, Ba Nguyen, Ba Van Nguyen, Bac Van Nguyen, Bao Q Nguyen, Bay Van Nguyen, Be Nguyen, Be Nguyen, Be Nguyen, Be Em Nguyen, Bich Thao Nguyen, Bien V Nguyen, Binh Nguyen, Binh Cong Nguyen, Binh V Nguyen, Binh Van Nguyen, Binh Van Nguyen, Binh Van Nguyen, Bui Van Nguyen, Ca Em Nguyen, Can Nguyen, Can Van Nguyen, Canh V Nguyen, Charlie Nguyen, Chien Nguyen, Chien Van Nguyen, Chin Nguyen, Chinh Van Nguyen, Christian Nguyen, Chuc Nguyen, Chung Nguyen, Chung Van Nguyen, Chuong Hoang Nguyen, Chuong V Nguyen, Chuyen Nguyen, Coolly Dinh Nguyen, Cuong Nguyen, Dai Nguyen, Dan T Nguyen, Dan Van Nguyen, Dan Van Nguyen, Dang Nguyen, Danny Nguyen, David Nguyen, Day Van Nguyen, De Van Nguyen, Den Nguyen, Diem Nguyen, Dien Nguyen, Diep Nguyen, Dinh Nguyen, Dinh V Nguyen, Dong T

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Nguyen, Dong Thi Nguyen, Dong X Nguyen, Duc Nguyen, Duc Van Nguyen, Dung Nguyen, Dung Anh and Xuan Duong Nguyen, Dung Ngoc Nguyen, Dung Van Nguyen, Dung Van Nguyen, Duoc Nguyen, Duong V Nguyen, Duong Van Nguyen, Duong Xuan Nguyen, Francis N Nguyen, Frank Nguyen, Gary Nguyen, Giang T Nguyen, Giang Truong Nguyen, Giau Van Nguyen, Ha T Nguyen, Ha Van Nguyen, Hai Van Nguyen, Hai Van Nguyen, Han Van Nguyen, Han Van Nguyen, Hang Nguyen, Hanh T Nguyen, Hao Van Nguyen, Harry H Nguyen, Henri Hiep Nguyen, Henry-Trang Nguyen, Hien Nguyen, Hien V Nguyen, Hiep Nguyen, Ho Nguyen, Ho V Nguyen, Hoa Nguyen, Hoa Nguyen, Hoa N Nguyen, Hoa Van Nguyen, Hoang Nguyen, Hoang Nguyen, Hoang T Nguyen, Hoi Nguyen, Hon Xuong Nguyen, Huan Nguyen, Hung Nguyen, Hung Nguyen, Hung Nguyen, Hung M Nguyen, Hung Manh Nguyen, Hung Van Nguyen, Hung-Joseph Nguyen, Huu Nghia Nguyen, Hy Don N Nguyen, Jackie Tin Nguyen, James Nguyen, James N Nguyen, Jefferson Nguyen, Jennifer Nguyen, Jimmy Nguyen, Jimmy Nguyen, Joachim Nguyen, Joe Nguyen, John R Nguyen, John Van Nguyen, Johnny Nguyen, Joseph Minh Nguyen, Kenny Hung Mong Nguyen, Kevin Nguyen, Khai Nguyen, Khanh Nguyen, Khanh and Viet Dinh

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Nguyen, Khanh Q
			Nguyen, Khiem
			Nguyen, Kien Phan
			Nguyen, Kim
			Nguyen, Kim Mai
			Nguyen, Kim Thoa
			Nguyen, Kinh V
			Nguyen, Lai
			Nguyen, Lai
			Nguyen, Lai Tan
			Nguyen, Lam
			Nguyen, Lam Van
			Nguyen, Lam Van
			Nguyen, Lam Van
			Nguyen, Lan
			Nguyen, Lang
			Nguyen, Lang
			Nguyen, Lanh
			Nguyen, Lap Van
			Nguyen, Lap Van
			Nguyen, Le
			Nguyen, Lien and Hang Luong
			Nguyen, Lien Thi
			Nguyen, Linda Oan
			Nguyen, Linh Thi
			Nguyen, Linh Van
			Nguyen, Lintt Danny
			Nguyen, Lluu
			Nguyen, Loc
			Nguyen, Loi
			Nguyen, Loi
			Nguyen, Long Phi
			Nguyen, Long T
			Nguyen, Long Viet
			Nguyen, Luom T
			Nguyen, Mai Van
			Nguyen, Man
			Nguyen, Mao-Van
			Nguyen, Mary
			Nguyen, Mary
			Nguyen, Melissa
			Nguyen, Minh
			Nguyen, Minh
			Nguyen, Minh
			Nguyen, Minh
			Nguyen, Minh
			Nguyen, Minh Ngoc
			Nguyen, Minh Van
			Nguyen, Moot
			Nguyen, Mui Van
			Nguyen, Mung T
			Nguyen, Muoi
			Nguyen, My Le Thi
			Nguyen, My Tan
			Nguyen, My V
			Nguyen, Nam Van
			Nguyen, Nam Van
			Nguyen, Nam Van
			Nguyen, Nam Van
			Nguyen, Nancy
			Nguyen, Nancy
			Nguyen, Nghi
			Nguyen, Nghi Q
			Nguyen, Nghia
			Nguyen, Nghiep
			Nguyen, Ngoc Tim
			Nguyen, Ngoc Van
			Nguyen, Nguyet
			Nguyen, Nhi
			Nguyen, Nho Van
			Nguyen, Nina
			Nguyen, Nuong
			Nguyen, Peter

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Nguyen, Peter Thang Nguyen, Peter V Nguyen, Phe Nguyen, Phong Nguyen, Phong Ngoc Nguyen, Phong T Nguyen, Phong Xuan Nguyen, Phu Huu Nguyen, Phuc Nguyen, Phuoc H Nguyen, Phuoc Van Nguyen, Phuong Nguyen, Phuong Nguyen, Quang Nguyen, Quang Nguyen, Quang Dang Nguyen, Quang Dinh Nguyen, Quang Van Nguyen, Quoc Van Nguyen, Quyen Minh Nguyen, Quyen T Nguyen, Quyen-Van Nguyen, Ran T Nguyen, Randon Nguyen, Richard Nguyen, Richard Nghia Nguyen, Rick Van Nguyen, Ricky Tinh Nguyen, Roe Van Nguyen, Rose Nguyen, Sam Nguyen, Sandy Ha Nguyen, Sang Van Nguyen, Sau V Nguyen, Si Ngoc Nguyen, Son Nguyen, Son Thanh Nguyen, Son Van Nguyen, Song V Nguyen, Steve Nguyen, Steve Q Nguyen, Steven Giap Nguyen, Sung Nguyen, Tai Nguyen, Tai The Nguyen, Tai Thi Nguyen, Tam Nguyen, Tam Minh Nguyen, Tam Thanh Nguyen, Tam V Nguyen, Tam Van Nguyen, Tan Nguyen, Ten Tan Nguyen, Thach Nguyen, Thang Nguyen, Thanh Nguyen, Thanh Nguyen, Thanh Nguyen, Thanh Phuc Nguyen, Thanh V Nguyen, Thanh Van Nguyen, Thanh Van Nguyen, Thanh Van Nguyen, Thanh Van Nguyen, Thao Nguyen, Thi Bich Hang Nguyen, Thiet Nguyen, Thiet Nguyen, Tho Duke Nguyen, Thoa D Nguyen, Thoa Thi Nguyen, Thomas Nguyen, Thu

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Nguyen, Thu and Rose
			Nguyen, Thu Duc
			Nguyen, Thu Van
			Nguyen, Thuan
			Nguyen, Thuan
			Nguyen, Thuong
			Nguyen, Thuong Van
			Nguyen, Thuy
			Nguyen, Thuyen
			Nguyen, Thuyen
			Nguyen, Tinh
			Nguyen, Tinh Van
			Nguyen, Toan
			Nguyen, Toan Van
			Nguyen, Tommy
			Nguyen, Tony
			Nguyen, Tony
			Nguyen, Tony
			Nguyen, Tony D
			Nguyen, Tony Hong
			Nguyen, Tony Si
			Nguyen, Tra
			Nguyen, Tra
			Nguyen, Tracy T
			Nguyen, Tri D
			Nguyen, Trich Van
			Nguyen, Trung Van
			Nguyen, Tu Van
			Nguyen, Tuan
			Nguyen, Tuan A
			Nguyen, Tuan H
			Nguyen, Tuan Ngoc
			Nguyen, Tuan Q
			Nguyen, Tuan Van
			Nguyen, Tung
			Nguyen, Tuyen Duc
			Nguyen, Tuyen Van
			Nguyen, Ty and Ngoc Ngo
			Nguyen, Van H
			Nguyen, Van Loi
			Nguyen, Vang Van
			Nguyen, Viet
			Nguyen, Viet
			Nguyen, Viet V
			Nguyen, Viet Van
			Nguyen, Vinh Van
			Nguyen, Vinh Van
			Nguyen, Vinh Van
			Nguyen, VT
			Nguyen, Vu Minh
			Nguyen, Vu T
			Nguyen, Vu Xuan
			Nguyen, Vui
			Nguyen, Vuong V
			Nguyen, Xuong Kim
			Nhan, Tran Quoc
			Nhon, Seri
			Nichols, Steve Anna
			Nicholson, Gary
			Nixon, Leonard
			Noble, Earl
			Noland, Terrel W
			Normand, Timothy
			Norris, Candace P
			Norris, John A
			Norris, Kenneth L
			Norris, Kevin J
			Nowell, James E
			Noy, Phen
			Nunez, Conrad
			Nunez, Jody
			Nunez, Joseph Paul
			Nunez, Randy

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Nunez, Wade Joseph Nyuyen, Toan Oberling, Darryl O'Blance, Adam O'Brien, Gary S O'Brien, Mark O'Brien, Michele Ogden, John M Oglesby, Henry Oglesby, Phyllis O'Gwynn, Michael P Sr Ohmer, Eva G Ohmer, George J Olander, Hazel Olander, Rodney Olander, Roland J Olander, Russell J Olander, Thomas Olano, Kevin Olano, Owen J Olano, Shelby F Olds, Malcolm D Jr Olinde, Wilfred J Jr Oliver, Charles O'Neil, Carey Oracoy, Brad R Orage, Eugene Orlando, Het Oteri, Robert F Oubre, Faron P Oubre, Thomas W Ourks, SokHoms K Owens, Larry E Owens, Sheppard Owens, Timothy Pacaccio, Thomas Jr Padgett, Kenneth J Palmer, Gay Ann P Palmer, John W Palmer, Mack Palmisano, Daniel P Palmisano, Dwayne Jr Palmisano, Kim Palmisano, Larry J Palmisano, Leroy J Palmisano, Robin G Pam, Phuong Bui Parfait, Antoine C Jr Parfait, Jerry Jr Parfait, John C Parfait, Joshua K Parfait, Mary F Parfait, Mary S Parfait, Olden G Jr Parfait, Robert C Jr Parfait, Robert C Sr Parfait, Rodney Parfait, Shane A Parfait, Shelton J Parfait, Timmy J Parker, Clyde A Parker, Franklin L Parker, Paul A Parker, Percy Todd Parks, Daniel Duane Parks, Ellery Doyle Jr Parrett, Joseph D Jr Parria, Danny Parria, Gavin C Sr Parria, Gillis F Jr Parria, Gillis F Sr Parria, Jerry D Parria, Kip G

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Parria, Lionel J Sr Parria, Louis III Parria, Louis J Sr Parria, Louis Jr Parria, Michael Parria, Ronald Parria, Ross Parris, Troy M Parrish, Charles Parrish, Walter L Passmore, Penny Pate, Shane Paterbaugh, Richard Patingo, Roger D Paul, Robert Emmett Payne, John Francis Payne, Stuart Peatross, David A Pelas, James Curtis Pelas, Jeffery Pellegrin, Corey P Pellegrin, Curlynn Pellegrin, James A Jr Pellegrin, Jordey Pellegrin, Karl Pellegrin, Karl J Pellegrin, Randy Pellegrin, Randy Sr Pellegrin, Rodney J Sr Pellegrin, Samuel Pellegrin, Troy Sr Peltier, Clyde Peltier, Rodney J Pena, Bartolo Jr Pena, Israel Pendarvis, Gracie Pennison, Elaine Pennison, Milton G Pequeno, Julius Percle, David P Perez, Allen M Perez, David J Perez, David P Perez, Derek Perez, Edward Jr Perez, Henry Jr Perez, Joe B Perez, Tilden A Jr Perez, Warren A Jr Perez, Warren A Sr Perez, Wesley Perrin, Dale Perrin, David M Perrin, Edward G Sr Perrin, Errol Joseph Jr Perrin, Jerry J Perrin, Kenneth V Perrin, Kevin Perrin, Kline J Sr Perrin, Kurt M Perrin, Michael Perrin, Michael A Perrin, Murphy P Perrin, Nelson C Jr Perrin, Pershing J Jr Perrin, Robert Perrin, Tim J Perrin, Tony Persohn, William T Peshoff, Kirk Lynn Pete, Alfred F Jr Pete, Alfred F Sr Pfleeger, William A

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Pham, An V Pham, Anh My Pham, Bob Pham, Cho Pham, Cindy Pham, David Pham, Dung Pham, Dung Phuoc Pham, Dung Phuoc Pham, Duong Van Pham, Gai Pham, Hai Pham, Hai Hong Pham, Hien Pham, Hien C Pham, Hiep Pham, Hieu Pham, Huan Van Pham, Hung Pham, Hung V Pham, Hung V Pham, Huynh Pham, John Pham, Johnny Pham, Joseph S Pham, Kannin Pham, Nga T Pham, Nhung T Pham, Osmond Pham, Paul P Pham, Phong-Thanh Pham, Phung Pham, Quoc V Pham, Steve Ban Pham, Steve V Pham, Thai Van Pham, Thai Van Pham, Thanh Pham, Thanh Pham, Thanh V Pham, Thinh Pham, Thinh V Pham, Tommy V Pham, Tran and Thu Quang Pham, Ut Van Phan, Anh Thi Phan, Banh Van Phan, Cong Van Phan, Dan T Phan, Hoang Phan, Hung Thanh Phan, Johnny Phan, Lam Phan, Luyen Van Phan, Nam V Phan, Thong Phan, Tien V Phan, Toan Phan, Tu Van Phat, Lam Mau Phelps, John D Phillips, Bruce A Phillips, Danny D Phillips, Gary Phillips, Harry Louis Phillips, James C Jr Phillips, Kristrina W Phipps, AW Phonthaasa, Khaolop Phorn, Phen Pickett, Kathy Picou, Calvin Jr Picou, Gary M

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Picou, Jennifer Picou, Jerome J Picou, Jordan J Picou, Randy John Picou, Ricky Sr Picou, Terry Pierce, Aaron Pierce, Dean Pierce, Elwood Pierce, Imogene Pierce, Stanley Pierce, Taffie Boone Pierre, Ivy Pierre, Joseph Pierre, Joseph C Jr Pierre, Paul J Pierre, Ronald J Pierron, Jake Pierron, Patsy H Pierron, Roger D Pinell, Ernie A Pinell, Harry J Jr Pinell, Jody J Pinell, Randall James Pinnell, Richard J Pinnell, Robert Pitre, Benton J Pitre, Carol Pitre, Claude A Sr Pitre, Elrod Pitre, Emily B Pitre, Glenn P Pitre, Herbert Pitre, Jeannie Pitre, Leo P Pitre, Robert Jr Pitre, Robin Pitre, Ryan P Pitre, Ted J Pittman, Roger Pizani, Bonnie Pizani, Craig Pizani, Jane Pizani, Terrill J Pizani, Terry M Pizani, Terry M Jr Plaisance, Arthur E Plaisance, Burgess Plaisance, Darren Plaisance, Dean J Sr Plaisance, Dorothy B Plaisance, Dwayne Plaisance, Earl J Jr Plaisance, Errance H Plaisance, Evans P Plaisance, Eves A III Plaisance, Gideons Plaisance, Gillis S Plaisance, Henry A Jr Plaisance, Jacob Plaisance, Jimmie J Plaisance, Joyce Plaisance, Keith Plaisance, Ken G Plaisance, Lawrence J Plaisance, Lucien Jr Plaisance, Peter A Sr Plaisance, Peter Jr Plaisance, Richard J Plaisance, Russel P Plaisance, Russell P Sr Plaisance, Thomas Plaisance, Thomas J

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Plaisance, Wayne P Plaisance, Whitney III Plork, Phan Poche, Glenn J Jr Poche, Glenn J Sr Pockrus, Gerald Poiencot, Russell Jr Poillion, Charles A Polito, Gerald Polkey, Gary J Polkey, Richard R Jr Polkey, Ronald Polkey, Shawn Michael Pollet, Lionel J Sr Pomgoria, Mario Ponce, Ben Ponce, Lewis B Poon, Raymond Pope, Robert Popham, Winford A Poppell, David M Porche, Ricky J Portier, Bobby Portier, Chad Portier, Corinne L Portier, Penelope J Portier, Robbie Portier, Russel A Sr Portier, Russell Potter, Hubert Edward Jr Potter, Robert D Potter, Robert J Pounds, Terry Wayne Powers, Clyde T Prejean, Dennis J Price, Carl Price, Curtis Price, Edwin J Price, Franklin J Price, George J Sr Price, Norris J Sr Price, Steve J Jr Price, Timmy T Price, Wade J Price, Warren J Prihoda, Steve Primeaux, Scott Pritchard, Dixie J Pritchard, James Ross Jr Prosperie, Claude J Jr Prosperie, Myron Prout, Rollen Prout, Sharonski K Prum, Thou Pugh, Charles D Jr Pugh, Charles Sr Pugh, Cody Pugh, Deanna Pugh, Donald Pugh, Nickolas Punch, Alvin Jr Punch, Donald J Punch, Todd M Punch, Travis J Purata, Maria Purse, Emil Purvis, George Quach, Duc Quach, James D Quach, Joe Quach, Si Tan Quinn, Dora M Racca, Charles

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Racine, Sylvan P Jr Radulic, Igor Ragas, Albert G Ragas, Gene Ragas, John D Ragas, Jonathan Ragas, Richard A Ragas, Ronda S Ralph, Lester B Ramirez, Alfred J Jr Randazzo, John A Jr Randazzo, Rick A Rando, Stanley D Ranko, Ellis Gerald Rapp, Dwayne Rapp, Leroy and Sedonia Rawlings, John H Sr Rawlings, Ralph E Rawls, Norman E Ray, Leo Ray, William C Jr Raynor, Steven Earl Readenour, Kelty O Reagan, Roy Reason, Patrick W Reaux, Paul S Sr Reaves, Craig A Reaves, Laten Rebert, Paul J Sr Rebert, Steve M Jr Rebstock, Charles Recter, Lance Jr Rector, Warren L Redden, Yvonne Regnier, Leoncea B Remondet, Garland Jr Renard, Lanny Reno, Edward Reno, George C Reno, George H Reno, George T Reno, Harry Revell, Ben David Reyes, Carlton Reyes, Dwight D Sr Reynon, Marcello Jr Rhodes, Randolph N Rhoto, Christopher L Ribardi, Frank A Rich, Wanda Heafner Richard, Bruce J Richard, David L Richard, Edgar J Richard, James Ray Richard, Melissa Richard, Randall K Richardson, James T Richert, Daniel E Richo, Earl Sr Richoux, Dudley Donald Jr Richoux, Irvin J Jr Richoux, Judy Richoux, Larry Richoux, Mary A Riego, Raymond A Riffle, Josiah B Rigaud, Randall Ryan Riggs, Jeffrey B Riley, Jackie Sr Riley, Raymond Rinkus, Anthony J III Rios, Amado Ripp, Norris M

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Robbins, Tony Robert, Dan S Roberts, Michael A Robertson, Kevin Robeson, Richard S Jr Robichaux, Craig J Robin, Alvin G Robin, Cary Joseph Robin, Charles R III Robin, Danny J Robin, Donald Robin, Floyd A Robin, Kenneth J Sr Robin, Ricky R Robinson, Johnson P III Robinson, Walter Roccaforte, Clay Rodi, Dominick R Rodi, Rhonda Rodrigue, Brent J Rodrigue, Carrol Sr Rodrigue, Glenn Rodrigue, Lerlene Rodrigue, Reggie Sr Rodrigue, Sonya Rodrigue, Wayne Rodriguez, Barry Rodriguez, Charles V Sr Rodriguez, Gregory Rodriguez, Jesus Rodriguez, Joseph C Jr Roeum, Orn Rogers, Barry David Rogers, Chad Rogers, Chad M Rogers, Kevin J Rogers, Nathan J Rojas, Carlton J Sr Rojas, Curtis Sr Rojas, Dennis J Jr Rojas, Dennis J Sr Rojas, Gordon V Rojas, Kerry D Rojas, Kerry D Jr Rojas, Randy J Sr Rojas, Raymond J Jr Roland, Brad Roland, Mathias C Roland, Vincent Rollins, Theresa Rollo, Wayne A Rome, Victor J IV Romero, D H Romero, Kardel J Romero, Norman Romero, Philip J Ronquille, Glenn Ronquille, Norman C Ronquillo, Earl Ronquillo, Richard J Ronquillo, Timothy Roseburrough, Charles R Jr Ross, Dorothy Ross, Edward Danny Jr Ross, Leo L Ross, Robert A Roth, Joseph F Jr Roth, Joseph M Jr Rotolo, Carolyn Rotolo, Feliz Rouse, Jimmy Roussel, Michael D Jr Roy, Henry Lee Jr

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Rudolph, Chad A Ruiz, Donald W Ruiz, James L Ruiz, Paul E Ruiz, Paul R Russell, Bentley R Russell, Casey Russell, Daniel Russell, James III Russell, Julie Ann Russell, Michael J Russell, Nicholas M Russell, Paul Rustick, Kenneth Ruttley, Adrian K Ruttley, Ernest T Jr Ruttley, JT Ryan, James C Sr Rybiski, Rhebb R Ryder, Luther V Sadler, Stewart Sagnes, Everett Saha, Amanda K Saling, Don M Saltalamacchia, Preston J Saltalamacchia, Sue A Salvato, Lawrence Jr Samanie, Caroll J Samanie, Frank J Samsome, Don Sanamo, Troy P Sanchez, Augustine Sanchez, Jeffery A Sanchez, Juan Sanchez, Robert A Sanders, William Shannon Sandras, R J Sandras, R J Jr Sandrock, Roy R III Santini, Lindberg W Jr Santiny, James Santiny, Patrick Sapia, Carroll J Jr Sapia, Eddie J Jr Sapia, Willard Saturday, Michael Rance Sauce, Carlton Joseph Sauce, Joseph C Jr Saucier, Houston J Sauls, Russell Savage, Malcolm H Savant, Raymond Savoie, Allen Savoie, Brent T Savoie, James Savoie, Merlin F Jr Savoie, Reginald M II Sawyer, Gerald Sawyer, Rodney Scarabin, Clifford Scarabin, Michael J Schaffer, Kelly Schaubhut, Curry A Schellinger, Lester B Jr Schexnaydre, Michael Schirmer, Robert Jr Schjott, Joseph J Sr Schlindwein, Henry Schmit, Paul A Jr Schmit, Paul A Sr Schmit, Victor J Jr Schouest, Ellis J III Schouest, Ellis Jr

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Schouest, Juston Schouest, Mark Schouest, Noel Schrimpf, Robert H Jr Schultz, Troy A Schwartz, Sidney Scott, Aaron J Scott, Audie B Scott, James E III Scott, Milford P Scott, Paul Seabrook, Terry G Seal, Charles T Seal, Joseph G Seaman, Garry Seaman, Greg Seaman, Ollie L Jr Seaman, Ollie L Sr Seang, Meng Sehon, Robert Craig Sekul, Morris G Sekul, S George Sellers, Isaac Charles Seng, Sophan Serigne, Adam R Serigne, Elizabeth Serigne, James J III Serigne, Kimmie J Serigne, Lisa M Serigne, Neil Serigne, O'Neil N Serigne, Richard J Sr Serigne, Rickey N Serigne, Ronald Raymond Serigne, Ronald Roch Serigne, Ross Serigny, Gail Serigny, Wayne A Serpas, Lenny Jr Sessions, William O III Sessions, William O Jr Sevel, Michael D Sevin, Carl Anthony Sevin, Earline Sevin, Janell A Sevin, Joey Sevin, Nac J Sevin, O'Neil and Symantha Sevin, Phillip T Sevin, Shane Sevin, Shane Anthony Sevin, Stanley J Sevin, Willis Seymour, Janet A Shackelford, David M Shaffer, Curtis E Shaffer, Glynnon D Shay, Daniel A Shilling, Jason Shilling, L E Shugars, Robert L Shutt, Randy Sifuentes, Esteban Sifuentes, Fernando Silver, Curtis A Jr Simon, Curnis Simon, John Simon, Leo Simpson, Mark Sims, Donald L Sims, Mike Singley, Charlie Sr Singley, Glenn

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Singley, Robert Joseph Sirgo, Jace Sisung, Walter Sisung, Walter Jr Skinner, Gary M Sr Skinner, Richard Skipper, Malcolm W Skrmetta, Martin J Smelker, Brian H Smith, Brian Smith, Carl R Jr Smith, Clark W Smith, Danny Smith, Danny M Jr Smith, Donna Smith, Elmer T Jr Smith, Glenda F Smith, James E Smith, Margie T Smith, Mark A Smith, Nancy F Smith, Raymond C Sr Smith, Tim Smith, Walter M Jr Smith, William T Smithwick, Ted Wayne Smoak, Bill Smoak, William W III Snell, Erick Snodgrass, Sam Soeung, Phat Soileau, John C Sr Sok, Kheng Sok, Montha Sok, Nhip Solet, Darren Solet, Donald M Solet, Joseph R Solet, Raymond J Solorzano, Marilyn Son, Kim Son, Sam Nang Son, Samay Son, Thuong Cong Soprano, Daniel Sork, William Sou, Mang Soudelier, Louis Jr Soudelier, Shannon Sour, Yem Kim Southerland, Robert Speir, Barbara Kay Spell, Jeffrey B Spell, Mark A Spellmeyer, Joel F Sr Spencer, Casey Spiers, Donald A Sprinkle, Avery M Sprinkle, Emery Shelton Jr Sprinkle, Joseph Warren Squarsich, Kenneth J Sreiy, Siphan St Amant, Dana A St Ann, Mr and Mrs Jerome K St Pierre, Darren St Pierre, Scott A Staves, Patrick Stechmann, Chad Stechmann, Karl J Stechmann, Todd Steele, Arnold D Jr Steele, Henry H III Steen, Carl L

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Steen, James D Steen, Kathy G Stein, Norris J Jr Stelly, Adlar Stelly, Carl A Stelly, Chad P Stelly, Delores Stelly, Sandrus J Sr Stelly, Sandrus Jr Stelly, Toby J Stelly, Veronica G Stelly, Warren Stephenson, Louis Stevens, Alvin Stevens, Curtis D Stevens, Donald Stevens, Glenda Stewart, Chester Jr Stewart, Derald Stewart, Derek Stewart, Fred Stewart, Jason F Stewart, Ronald G Stewart, William C Stiffler, Thanh Stipelcovich, Lawrence L Stipelcovich, Todd J Stockfett, Brenda Stokes, Todd Stone-Rinkus, Pamela Strader, Steven R Strickland, Kenneth Strickland, Rita G Stuart, James Vernon Stutes, Rex E Sulak, Billy W Sun, Hong Sreng Surmik, Donald D Swindell, Keith M Sylve, Dennis A Sylve, James L Sylve, Nathan Sylve, Scott Sylvesr, Paul A Ta, Ba Van Ta, Chris Tabb, Calvin Taliancich, Andrew Taliancich, Ivan Taliancich, Joseph M Taliancich, Srecka Tan, Ho Dung Tan, Hung Tan, Lan T Tan, Ngo The Tang, Thanh Tanner, Robert Charles Taravella, Raymond Tassin, Alton J Tassin, Keith P Tate, Archie P Tate, Terrell Tauzier, Kevin M Taylor, Doyle L Taylor, Herman R Taylor, Herman R Jr Taylor, J P Jr Taylor, John C Taylor, Leander J Sr Taylor, Leo Jr Taylor, Lewis Taylor, Nathan L Taylor, Robert L

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Taylor, Robert M Teap, Phal Tek, Heng Templat, Paul Terluin, John L III Terrebonne, Adrein Scott Terrebonne, Alphonse J Terrebonne, Alton S Jr Terrebonne, Alton S Sr Terrebonne, Carol Terrebonne, Carroll Terrebonne, Chad Terrebonne, Chad Sr Terrebonne, Daniel J Terrebonne, Donavon J Terrebonne, Gary J Sr Terrebonne, Jimmy Jr Terrebonne, Jimmy Sr Terrebonne, Kline A Terrebonne, Lanny Terrebonne, Larry F Jr Terrebonne, Scott Terrebonne, Steven Terrebonne, Steven Terrebonne, Toby J Terrel, Chad J Sr Terrell, C Todd Terrio, Brandon James Terrio, Harvey J Jr Terry, Eloise P Tesvich, Kuzma D Thac, Dang Van Thach, Phuong Thai, Huynh Tan Thai, Paul Thai, Thomas Thanh, Thien Tharpe, Jack Theriot, Anthony Theriot, Carroll A Jr Theriot, Clay J Jr Theriot, Craig A Theriot, Dean P Theriot, Donnie Theriot, Jeffery C Theriot, Larry J Theriot, Lynn Theriot, Mark A Theriot, Roland P Jr Theriot, Wanda J Thibodaux, Jared Thibodeaux, Bart James Thibodeaux, Brian A Thibodeaux, Brian M Thibodeaux, Calvin A Jr Thibodeaux, Fay F Thibodeaux, Glenn P Thibodeaux, Jeffrey Thibodeaux, Jonathan Thibodeaux, Josephine Thibodeaux, Keith Thibodeaux, Tony J Thibodeaux, Warren J Thidobaux, James V Sr Thiet, Tran Thomas, Alvin Thomas, Brent Thomas, Dally S Thomas, Janie G Thomas, John Richard Thomas, Kenneth Ward Thomas, Monica P Thomas, Ralph L Jr

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Thomas, Ralph Lee Jr Thomas, Randall Thomas, Robert W Thomas, Willard N Jr Thomassie, Gerard Thomassie, Nathan A Thomassie, Philip A Thomassie, Ronald J Thomassie, Tracy Joseph Thompson, Bobbie Thompson, David W Thompson, Edwin A Thompson, George Thompson, James D Jr Thompson, James Jr Thompson, John E Thompson, John R Thompson, Randall Thompson, Sammy Thompson, Shawn Thong, R Thonn, John J Jr Thonn, Victor J Thorpe, Robert Lee Jr Thurman, Charles E Tiet, Thanh Duc Tilghman, Gene E Tillett, Billy Carl Tillman, Lewis A Jr Tillman, Timothy P and Yvonne M Tillotson, Pat Tinney, Mark A Tisdale, Georgia W Tiser, Oscar Tiser, Thomas C Jr Tiser, Thomas C Sr To, Cang Van To, Du Van Todd, Fred Noel Todd, Patricia J Todd, Rebecca G Todd, Robert C and Patricia J Todd, Vonnie Frank Jr Tompkins, Gerald Paul II Toney, George Jr Tong, Hai V Tony, Linh C Toomer, Christina Abbott Toomer, Christy Toomer, Frank G Jr Toomer, Jeffrey E Toomer, Kenneth Toomer, Lamar K Toomer, Larry Curtis and Tina Toomer, William Kemp Torrible, David P Torrible, Jason Touchard, Anthony H Touchard, John B Jr Touchard, Paul V Jr Touchet, Eldridge III Touchet, Eldridge Jr Toups, Anthony G Toups, Bryan Toups, Jeff Toups, Jimmie J Toups, Kim Toups, Manuel Toups, Ted Toups, Tommy Toureau, James Tower, H Melvin Townsend, Harmon Lynn

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Townsend, Marion Brooks
			Tra, Hop T
			Trabeau, James D
			Trahan, Allen A Jr
			Trahan, Alvin Jr
			Trahan, Druby
			Trahan, Dudley
			Trahan, Elie J
			Trahan, Eric J
			Trahan, James
			Trahan, Karen C
			Trahan, Lynn P Sr
			Trahan, Ricky
			Trahan, Ronald J
			Trahan, Tracey L
			Trahan, Wayne Paul
			Tran, Allen Hai
			Tran, Andana
			Tran, Anh
			Tran, Anh
			Tran, Anh N
			Tran, Bay V
			Tran, Bay Van
			Tran, Binh
			Tran, Binh Van
			Tran, Ca Van
			Tran, Cam Van
			Tran, Chau V
			Tran, Chau Van
			Tran, Chau Van
			Tran, Chi T
			Tran, Christina Phuong
			Tran, Chu V
			Tran, Cuong
			Tran, Cuong
			Tran, Danny Duc
			Tran, Den
			Tran, Dien
			Tran, Dinh M
			Tran, Dinh Q
			Tran, Doan
			Tran, Dung Van
			Tran, Duoc
			Tran, Duoc
			Tran, Duong
			Tran, Eric
			Tran, Francis
			Tran, Francis
			Tran, Giang
			Tran, Giao
			Tran, Ha Mike
			Tran, Hai
			Tran, Hien H
			Tran, Hiep Phuoc
			Tran, Hieu
			Tran, Hoa
			Tran, Hoa
			Tran, Hue T
			Tran, Huey
			Tran, Hung
			Tran, Hung
			Tran, Hung
			Tran, Hung P
			Tran, Hung Van
			Tran, Hung Van
			Tran, Hung Viet
			Tran, James N
			Tran, John
			Tran, Johnny Dinh
			Tran, Joseph
			Tran, Joseph T
			Tran, Khan Van
			Tran, Khanh

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Tran, Kim Tran, Kim Chi Thi Tran, Lan Tina Tran, Le and Phat Le Tran, Leo Van Tran, Loan Tran, Long Tran, Long Van Tran, Luu Van Tran, Ly Tran, Ly Van Tran, Mai Thi Tran, Mary Tran, Miel Van Tran, Mien Tran, Mike Tran, Mike Dai Tran, Minh Huu Tran, Muoi Tran, My T Tran, Nam Van Tran, Nang Van Tran, Nghia and T Le Banh Tran, Ngoc Tran, Nhanh Van Tran, Nhieu T Tran, Nhieu Van Tran, Nho Tran, Peter Tran, Phu Van Tran, Phuc D Tran, Phuc V Tran, Phung Tran, Quan Van Tran, Quang Quang Tran, Quang T Tran, Quang Van Tran, Qui V Tran, Quy Van Tran, Ran Van Tran, Sarah T Tran, Sau Tran, Scotty Tran, Son Tran, Son Van Tran, Steven Tuan Tran, Tam Tran, Te Van Tran, Than Tran, Thang Van Tran, Thanh Tran, Thanh Tran, Thanh Van Tran, Theresa Tran, Thi Tran, Thich Van Tran, Thien Tran, Thien Van Tran, Thiet Tran, Tommy Tran, Tony Tran, Tri Tran, Trinh Tran, Trung Tran, Trung Van Tran, Tu Tran, Tuan Tran, Tuan Tran, Tuan Minh Tran, Tuong Van Tran, Tuyet Thi Tran, Van T Tran, Victor

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Tran, Vinh Tran, Vinh Q Tran, Vinh Q Tran, Vui Kim Trang, Tan Trapp, Tommy Treadaway, Michael Tregle, Curtis Trehoan, William Paul Treuil, Gary J Trevino, Manuel Treybig, E H “Buddy” Jr Triche, Donald G Trieu, Hiep and Jackie Trieu, Hung Hoa Trieu, Jasmine and Ly Trieu, Lorie and Tam Trieu, Tam Trinh, Christopher B Trinh, Philip P Trosclair, Clark K Trosclair, Clark P Trosclair, Eugene P Trosclair, James J Trosclair, Jerome Trosclair, Joseph Trosclair, Lori Trosclair, Louis V Trosclair, Patricia Trosclair, Randy Trosclair, Ricky Trosclair, Wallace Sr Truong, Andre Truong, Andre V Truong, Be Van Truong, Benjamin Truong, Dac Truong, Huan Truong, Kim Truong, Nhut Van Truong, Steve Truong, Tham T Truong, Thanh Minh Truong, Them Van Truong, Thom Truong, Timmy Trutt, George W Sr Trutt, Wanda Turlich, Mervin A Turner, Calvin L Tyre, John Upton, Terry R Valentino, J G Jr Valentino, James Vallot, Christopher A Vallot, Nancy H Valure, Hugh P Van Alsburg, Charles Van Gordstnoven, Jean J Van Nguyen, Irving Van, Than Van, Vui Vanacor, Kathy D Vanacor, Malcolm J Sr Vanicor, Bobbie VanMeter, Matthew T VanMeter, William Earl Varney, Randy L Vath, Raymond S Veasel, William E III Vegas, Brien J Vegas, Percy J Vegas, Terry J

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Vegas, Terry J Jr Vegas, Terry Jr Vela, Peter Verdin, Aaron Verdin, Av Verdin, Bradley J Verdin, Brent A Verdin, Charles A Verdin, Charles E Verdin, Coy P Verdin, Curtis A Jr Verdin, Delphine Verdin, Diana A Verdin, Ebro W Verdin, Eric P Verdin, Ernest Joseph Sr Verdin, Jeff C Verdin, Jeffrey A Verdin, Jessie J Verdin, John P Verdin, Joseph Verdin, Joseph A Jr Verdin, Joseph Cleveland Verdin, Joseph D Jr Verdin, Joseph S Verdin, Joseph W Jr Verdin, Justilien G Verdin, Matthew W Sr Verdin, Michel A Verdin, Paul E Verdin, Perry Anthony Verdin, Rodney Verdin, Rodney P Verdin, Rodney P Verdin, Skylar Verdin, Timmy J Verdin, Toby Verdin, Tommy P Verdin, Tony J Verdin, Troy Verdin, Vincent Verdin, Viness Jr Verdin, Wallace P Verdin, Webb A Sr Verdin, Wesley D Sr Verdine, Jimmy R Vermeulen, Joseph Thomas Verret, Darren L Verret, Donald J Verret, Ernest J Sr Verret, James A Verret, Jean E Verret, Jimmy J Sr Verret, Johnny R Verret, Joseph L Verret, Paul L Verret, Preston Verret, Quincy Verret, Ronald Paul Sr Versaggi, Joseph A Versaggi, Salvatore J Vicknair, Brent J Sr Vicknair, Duane P Vicknair, Henry Dale Vicknair, Ricky A Vidrine, Bill and Kathi Vidrine, Corey Vidrine, Richard Vila, William F Villers, Joseph A Vincent, Gage Tyler Vincent, Gene Vincent, Gene B

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Vincent, Robert N
			Vise, Charles E III
			Vizier, Barry A
			Vizier, Christopher
			Vizier, Clovis J III
			Vizier, Douglas M
			Vizier, Tommie Jr
			Vo, Anh M
			Vo, Chin Van
			Vo, Dam
			Vo, Dan M
			Vo, Dany
			Vo, Day V
			Vo, Duong V
			Vo, Dustin
			Vo, Hai Van
			Vo, Hanh Xuan
			Vo, Hien Van
			Vo, Hoang The
			Vo, Hong
			Vo, Hung Thanh
			Vo, Huy K
			Vo, Johnny
			Vo, Kent
			Vo, Lien Van
			Vo, Man
			Vo, Mark Van
			Vo, Minh Hung
			Vo, Minh Ngoc
			Vo, Minh Ray
			Vo, Mong V
			Vo, My Dung Thi
			Vo, My Lynn
			Vo, Nga
			Vo, Nhon Tai
			Vo, Nhu Thanh
			Vo, Quang Minh
			Vo, Sang M
			Vo, Sanh M
			Vo, Song V
			Vo, Tan Thanh
			Vo, Tan Thanh
			Vo, Thanh Van
			Vo, Thao
			Vo, Thuan Van
			Vo, Tien Van
			Vo, Tom
			Vo, Tong Ba
			Vo, Trao Van
			Vo, Truong
			Vo, Van Van
			Vo, Vi Viet
			Vodopija, Benjamin S
			Vogt, James L
			Voisin, Eddie James
			Voisin, Joyce
			Voison, Jamie
			Von Harten, Harold L
			Vona, Michael A
			Vongrith, Richard
			Vossler, Kirk
			Vu, Hung
			Vu, John H
			Vu, Khanh
			Vu, Khoi Van
			Vu, Quan Quoc
			Vu, Ruyen Viet
			Vu, Sac
			Vu, Sean
			Vu, Tam
			Vu, Thiem Ngoc
			Vu, Thuy
			Vu, Tom

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Vu, Tu Viet Vu, Tuyen Jack Vu, Tuyen Viet Wade, Calvin J Jr Wade, Gerard Waguespack, David M Sr Waguespack, Randy P II Wainwright, Vernon Walker, Jerry Walker, Rogers H Wallace, Dennis Wallace, Edward Wallace, John A Wallace, John K Wallace, Trevis L Waller, Jack Jr Waller, John M Waller, Mike Wallis, Craig A Wallis, Keith Walters, Samuel G Walton, Marion M Wannage, Edward Joseph Wannage, Fred Jr Wannage, Frederick W Sr Ward, Clarence Jr Ward, Olan B Ward, Walter M Washington, Clifford Washington, John Emile III Washington, Kevin Washington, Louis N Wattigney, Cecil K Jr Wattigney, Michael Watts, Brandon A Watts, Warren Webb, Bobby Webb, Bobby N Webb, Josie M Webre, Donald Webre, Dudley A Webster, Harold Weeks, Don Franklin Weems, Laddie E Weinstein, Barry C Weiskopf, Rodney Weiskopf, Rodney Sr Weiskopf, Todd Welch, Amos J Wells, Douglas E Wells, Stephen Ray Wendling, Steven W Wescovich, Charles W Wescovich, Wesley Darryl Whatley, William J White, Allen Sr White, Charles White, Charles Fulton White, David L White, Gary Farrell White, James Hugh White, Perry J White, Raymond White, Robert Sr Wicher, John Wiggins, Chad M Sr Wiggins, Ernest Wiggins, Harry L Wiggins, Kenneth A Wiggins, Matthew Wilbur, Gerald Anthony Wilcox, Robert Wiles, Alfred Adam

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Wiles, Glen Gilbert Wiles, Sonny Joel Sr Wilkerson, Gene Dillard and Judith Wilkinson, William Riley Williams, Allen Jr Williams, Andrew Williams, B Dean Williams, Clyde L Williams, Dale A Williams, Emmett J Williams, Herman J Jr Williams, J T Williams, John A Williams, Johnny Paul Williams, Joseph H Williams, Kirk Williams, Leopold A Williams, Mark A Williams, Mary Ann C Williams, Melissa A Williams, Nina Williams, Oliver Kent Williams, Parish Williams, Roberto Williams, Ronnie Williams, Scott A Williams, Steven Williams, Thomas D Williamson, Richard L Sr Willyard, Derek C Willyard, Donald R Wilson, Alward Wilson, Hosea Wilson, Joe R Wilson, Jonathan Wilson, Katherine Wiltz, Allen Wing, Melvin Wiseman, Allen Wiseman, Clarence J Jr Wiseman, Jean P Wiseman, Joseph A Wiseman, Michael T Jr Wiseman, Michael T Sr Wolfe, Charles Woods, John T III Wright, Curtis Wright, Leonard Wright, Randy D Yeamans, Douglas Yeamans, Neil Yeamans, Ronnie Yoeuth, Peon Yopp, Harold Yopp, Jonathon Yopp, Milton Thomas Young, James Young, Taing Young, Willie Yow, Patricia D Yow, Richard C Zanca, Anthony V Sr Zar, Ashley A Zar, Carl J Zar, John III Zar, Steve Zar, Steven Zar, Troy A Zerinque, John S Jr Zirlott, Curtis Zirlott, Jason D Zirlott, Jeremy Zirlott, Kimberly

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Zirlott, Milton Zirlott, Perry Zirlott, Rosa H Zito, Brian C Zuvich, Michael A Jr Ad Hoc Shrimp Trade Action Committee Bryan Fishermens' Co-Op Inc Louisiana Shrimp Association South Carolina Shrimpers Association Vietnamese-American Commerical Fisherman's Union 3–G Enterprize dba Griffin's Seafood A & G Trawlers Inc A & T Shrimping A Ford Able Seafood A J Horizon Inc A&M Inc A&R Shrimp Co A&T Shrimping AAH Inc AC Christopher Sea Food Inc Ace of Trade LLC Adriana Corp AJ Boats Inc AJ Horizon Inc AJ's Seafood Alario Inc Alcide J Adams Jr Aldebaran Inc Aldebran Inc Alexander and Dola Alfred Englade Inc Alfred Trawlers Inc Allen Hai Tran dba Kien Giang Al's Shrimp Co Al's Shrimp Co LLC Al's Shrimp Co LLC Al's Whosale & Retail Alton Cheeks Amada Inc Amber Waves Amelia Isle American Beauty American Beauty Inc American Eagle Enterprise Inc American Girl American Seafood Americana Shrimp Amvina II Amvina II Amy D Inc Amy's Seafood Mart An Kit Andy Boy Andy's SFD Angel Annie Inc Angel Leigh Angel Seafood Inc Angela Marie Inc Angela Marie Inc Angelina Inc Anna Grace LLC Anna Grace LLC Annie Thornton Inc Annie Thornton Inc Anthony Boy I Anthony Boy I Anthony Fillinich Sr Apalachee Girl Inc Aparicio Trawlers Inc dba Marcosa Apple Jack Inc Aquila Seafood Inc Aquillard Seafood

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Argo Marine Arnold's Seafood Arroya Cruz Inc Art & Red Inc Arthur Chisholm A–Seafood Express Ashley Deeb Inc Ashley W 648675 Asian Gulf Corp Atlantic Atocha Troy A LeCompte Sr Atwood Enterprises B & B Boats Inc B & B Seafood B&J Seafood BaBe Inc Baby Ruth Bailey, David B Sr—Bailey's Seafood Bailey's Seafood of Cameron Inc Bait Inc Bait Inc Baker Shrimp Bama Love Inc Bama Sea Products Inc Bao Hung Inc Bao Hung Inc Bar Shrimp Barbara Brooks Inc Barbara Brooks Inc Barisich Inc Barisich Inc Barnacle-Bill Inc Barney's Bait & Seafood Barrios Seafood Bay Boy Bay Islander Inc Bay Sweeper Nets Baye's Seafood 335654 Bayou Bounty Seafood LLC Bayou Caddy Fisheries Inc Bayou Carlin Fisheries Bayou Carlin Fisheries Inc Bayou Shrimp Processors Inc BBC Trawlers Inc BBS Inc Beachcomber Inc Beachcomber Inc Bea's Corp Beecher's Seafood Believer Inc Bennett's Seafood Benny Alexie Bergeron's Seafood Bertileana Corp Best Sea-Pack of Texas Inc Beth Lomonte Inc Beth Lomonte Inc Betty B Betty H Inc Bety Inc BF Millis & Sons Seafood Big Daddy Seafood Inc Big Grapes Inc Big Kev Big Oak Seafood Big Oak Seafood Big Oaks Seafood Big Shrimp Inc Billy J Foret—BJF Inc Billy Sue Inc Billy Sue Inc Biloxi Freezing & Processing Binh Duong

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			BJB LLC Blain & Melissa Inc Blanca Cruz Inc Blanchard & Cheramie Inc Blanchard Seafood Blazing Sun Inc Blazing Sun Inc Blue Water Seafood Bluewater Shrimp Co Bluffton Oyster Co Boat Josey Wales Boat Josey Wales LLC Boat Monica Kiff Boat Warrior Bob-Rey Fisheries Inc Bodden Trawlers Inc Bolillo Prieto Inc Bon Secour Boats Inc Bon Secour Fisheries Inc Bon Secur Boats Inc Bonnie Lass Inc Boone Seafood Bosarge Boats Bosarge Boats Bosarge Boats Inc Bottom Verification LLC Bowers Shrimp Bowers Shrimp Farm Bowers Valley Shrimp Inc Brad Friloux Brad Nicole Seafood Bradley John Inc Bradley's Seafood Mkt Brara Cruz Inc Brenda Darlene Inc Brett Anthony Bridgeside Marina Bridgeside Seafood Bridget's Seafood Service Inc Bridget's Seafood Service Inc BRS Seafood BRS Seafood Bruce W Johnson Inc Bubba Daniels Inc Bubba Tower Shrimp Co Buccaneer Shrimp Co Buchmer Inc Buck & Peed Inc Buddy Boy Inc Buddy's Seafood Bumble Bee Seafoods LLC Bumble Bee Seafoods LLC Bundy Seafood Bundy's Seafood Bunny's Shrimp Burgbe Gump Seafood Burnell Trawlers Inc Burnell Trawlers Inc/Mamacita/Swamp Irish Buster Brown Inc By You Seafood C & R Trawlers Inc CA Magwood Enterprises Inc Cajun Queen of LA LLC Calcasien Point Bait N More Inc Cam Ranh Bay Camardelle's Seafood Candy Inc Cao Family Inc Cap Robear Cap'n Bozo Inc Capn Jasper's Seafood Inc Capt Aaron Capt Adam

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Capt Anthony Inc Capt Bean (Richard A Ragas) Capt Beb Inc Capt Bill Jr Inc Capt Brother Inc Capt Bubba Capt Buck Capt Carl Capt Carlos Trawlers Inc Capt Chance Inc Capt Christopher Inc Capt Chuckie Capt Craig Capt Craig Inc Capt Crockett Inc Capt Darren Hill Inc Capt Dennis Inc Capt Dickie Inc Capt Dickie V Inc Capt Doug Capt Eddie Inc Capt Edward Inc Capt Eli's Capt Elroy Inc Capt Ernest LLC Capt Ernest LLC Capt GDA Inc Capt George Capt H & P Corp Capt Havey Seafood Capt Henry Seafood Dock Capt Huy Capt JDL Inc Capt Jimmy Inc Capt Joe Capt Johnny II Capt Jonathan Capt Jonathan Inc Capt Joshua Inc Capt Jude 520556 13026 Capt Ken Capt Kevin Inc Capt Ko Inc Capt Koung Lim Capt Larry Seafood Market Capt Larry's Inc Capt LC Corp Capt LD Seafood Inc Capt Linton Inc Capt Mack Inc Capt Marcus Inc Capt Morris Capt Opie Capt P Inc Capt Pappie Inc Capt Pat Capt Paw Paw Capt Pete Inc Capt Peter Long Inc Capt Pool Bear II's Seafood Capt Quang Capt Quina Inc Capt Richard Capt Ross Inc Capt Roy Capt Russell Jr Inc Capt Ryan Inc Capt Ryan's Capt Sam Capt Sang Capt Scar Inc Capt Scott Capt Scott 5

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Capt Scott Seafood Capt Sparkers Shrimp Capt St Peter Capt T&T Corp Capt Thien Capt Tommy Inc Capt Two Inc Capt Van's Seafood Capt Walley Inc Capt Zoe Inc Captain Allen's Bait & Tackle Captain Arnulfo Inc Captain Blair Seafood Captain Dexter Inc Captain D's Captain Homer Inc Captain Jeff Captain JH III Inc Captain Joshua Captain Larry'O Captain Miss Cammy Nhung Captain Regis Captain Rick Captain T/Thiet Nguyen Captain Tony Captain Truong Phi Corp Captain Vinh Cap't-Brandon Captian Thomas Trawler Inc Carlino Seafood Carly Sue Inc Carmelita Inc Carolina Lady Inc Carolina Sea Foods Inc Caroline and Calandra Inc Carson & Co Carson & Co Inc Cary Encalade Trawling Castellano's Corp Cathy Cheramie Inc CBS Seafood & Catering LLC CBS Seafood & Catering LLC Cecilia Enterprise Inc CF Gollot & Son Sfd Inc CF Gollott and Son Seafood Inc Chackbay Lady Chad & Chaz LLC Challenger Shrimp Co Inc Chalmette Marine Supply Co Inc Chalmette Net & Trawl Chapa Shrimp Trawlers Chaplin Seafood Charlee Girl Charles Guidry Inc Charles Sellers Charles White Charlotte Maier Inc Charlotte Maier Inc Chef Seafood Ent LLC Cheramies Landing Cherry Pt Seafood Cheryl Lynn Inc Chez Francois Seafood Chilling Pride Inc Chin Nguyen Co Chin Nguyen Co Chinatown Seafood Co Inc Chines Cajun Net Shop Chris Hansen Seafood Christian G Inc Christina Leigh Shrimp Co Christina Leigh Shrimp Company Inc Christina Leigh Shrimp Company Inc

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Cieutat Trawlers Cinco de Mayo Inc Cindy Lynn Inc Cindy Mae Inc City Market Inc CJ Seafood CJs Seafood Clifford Washington Clinton Hayes—C&S Enterprises of Brandon Inc Cochran's Boat Yard Colorado River Seafood Colson Marine Comm Fishing Commercial Fishing Service CFS Seafoods Cong Son Cong-An Inc Country Girl Inc Country Inc Courtney & Ory Inc Cowdrey Fish Cptn David Crab-Man Bait Shop Craig A Wallis, Keith Wallis dba W&W Dock & 10 boats Cristina Seafood CRJ Inc Cruillas Inc Crusader Inc Crustacean Frustration Crystal Gayle Inc Crystal Light Inc Crystal Light Inc Curtis Henderson Custom Pack Inc Custom Pack Inc Cyril's Ice House & Supplies D & A Seafood D & C Seafood Inc D & J Shrimping LLC D & M Seafood & Rental LLC D Ditcharo Jr Seafoods D G & R C Inc D S L & R Inc D&T Marine Inc Daddys Boys DaHa Inc/Cat'Sass DAHAPA Inc Dale's Seafood Inc Dang Nguyen Daniel E Lane Danny Boy Inc Danny Max David & Danny Inc David C Donnelly David Daniels David Ellison Jr David Gollott Sfd Inc David W Casanova's Seafood David White David's Shrimping Co Davis Seafood Davis Seafood Davis Seafood Inc Dawn Marie Deana Cheramie Inc Deanna Lea Dean's Seafood Deau Nook Debbe Anne Inc Deep Sea Foods Inc/Jubilee Foods Inc Delcambre Seafood Dell Marine Inc Dennis Menesses Seafood

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Dennis' Seafood Inc
			Dennis Shrimp Co Inc
			Desperado
			DFS Inc
			Diamond Reef Seafood
			Diem Inc
			Dinh Nguyen
			Dixie General Store LLC
			Dixie Twister
			Dominick's Seafood Inc
			Don Paco Inc
			Donald F Boone II
			Dong Nquyen
			Donini Seafoods Inc
			Donna Marie
			Donovan Tien I & II
			Dopson Seafood
			Dorada Cruz Inc
			Double Do Inc
			Double Do Inc
			Doug and Neil Inc
			Douglas Landing
			Doxey's Oyster & Shrimp
			Dragnet II
			Dragnet Inc
			Dragnet Seafood LLC
			Dubberly's Mobile Seafood
			Dudenhefer Seafood
			Dugas Shrimp Co LLC
			Dunamis Towing Inc
			Dupree's Seafood
			Duval & Duval Inc
			Dwayne's Dream Inc
			E & M Seafood
			E & T Boating
			E Gardner McClellan
			E&E Shrimp Co Inc
			East Coast Seafood
			East Coast Seafood
			East Coast Seafood
			East Coast Seafood
			Edisto Queen LLC
			Edward Garcia Trawlers
			EKV Inc
			El Pedro Fishing & Trading Co Inc
			Eliminator Inc
			Elizabeth Nguyen
			Ellerbee Seafoods
			Ellie May
			Elmira Pflueckhahn Inc
			Elmira Pflueckhahn Inc
			Elvira G Inc
			Emily's SFD
			Emmanuel Inc
			Ensenada Cruz Inc
			Enterprise
			Enterprise Inc
			Equalizer Shrimp Co Inc
			Eric F Dufrene Jr LLC
			Erica Lynn Inc
			Erickson & Jensen Seafood Packers
			Ethan G Inc
			Excalibur LLC
			F/V Apalachee Warrior
			F/V Atlantis I
			F/V Capt Walter B
			F/V Captain Andy
			F/V Eight Flags
			F/V Mary Ann
			F/V Miss Betty
			F/V Morning Star
			F/V Nam Linh
			F/V Olivia B

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			F/V Phuoc Thanh Mai II F/V Sea Dolphin F/V Southern Grace F/V Steven Mai F/V Steven Mai II Famer Boys Catfish Kitchens Family Thing Father Dan Inc Father Lasimir Inc Father Mike Inc Fiesta Cruz Inc Fine Shrimp Co Fire Fox Inc Fisherman's Reef Shrimp Co Fishermen IX Inc Fishing Vessel Enterprise Inc Five Princesses Inc FKM Inc Fleet Products Inc Flower Shrimp House Flowers Seafood Co Floyd's Wholesale Seafood Inc Fly By Night Inc Forest Billiot Jr Fortune Shrimp Co Inc FP Oubre Francis Brothers Inc Francis Brothers Inc Francis III Frank Toomer Jr Fran-Tastic Too Frederick-Dan Freedom Fishing Inc Freeman Seafood Frelich Seafood Inc Frenchie D–282226 Fripp Point Seafood G & L Trawling Inc G & O Shrimp Co Inc G & O Trawlers Inc G & S Trawlers Inc G D Ventures II Inc G G Seafood G R LeBlanc Trawlers Inc Gail's Bait Shop Gale Force Inc Gambler Inc Gambler Inc Garijak Inc Gary F White Gator's Seafood Gay Fish Co Gay Fish Co GeeChee Fresh Seafood Gemita Inc Gene P Callahan Inc George J Price Sr Ent Inc Georgia Shrimp Co LLC Gerica Marine Gilden Enterprises Gillikin Marine Railways Inc Gina K Inc Gisco Inc Gisco Inc Glenda Guidry Inc Gloria Cruz Inc Go Fish Inc God's Gift God's Gift Shrimp Vessel Gogie Gold Coast Seafood Inc Golden Gulf Coast Pkg Co Inc Golden Phase Inc

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Golden Text Inc Golden Text Inc Golden Text Inc Goldenstar Gollott Brothers Sfd Co Inc Gollott's Oil Dock & Ice House Inc Gonzalez Trawlers Inc Gore Enterprises Inc Gore Enterprizes Inc Gore Seafood Co Gore Seafood Inc Gove Lopez Graham Fisheries Inc Graham Shrimp Co Inc Graham Shrimp Co Inc Gramps Shrimp Co Grandma Inc Grandpa's Dream Grandpa's Dream Granny's Garden and Seafood Green Flash LLC Greg Inc Gregory Mark Gaubert Gregory Mark Gaubert Gregory T Boone Gros Tete Trucking Inc Guidry's Bait Shop Guidry's Net Shop Gulf Central Seaood Inc Gulf Crown Seafood Co Inc Gulf Fish Inc Gulf Fisheries Inc Gulf Island Shrimp & Seafood II LLC Gulf King Services Inc Gulf Pride Enterprises Inc Gulf Seaway Seafood Inc Gulf Shrimp Gulf South Inc Gulf Stream Marina LLC Gulf Sweeper Inc (Trawler Gulf Sweeper) Gypsy Girl Inc H & L Seafood Hack Berry Seafood Hagen & Miley Inc Hailey Marie Inc Hanh Lai Inc Hannah Joyce Inc Hardy Trawlers Hardy Trawlers Harrington Fish Co Inc Harrington Seafood & Supply Inc Harrington Shrimp Co Inc Harrington Trawlers Inc Harris Fisheries Inc Hazel's Hustler HCP LLC Heather Lynn Inc Heavy Metal Inc Hebert Investments Inc Hebert's Mini Mart LLC Helen E Inc Helen Kay Inc Helen Kay Inc Helen W Smith Inc Henderson Seafood Henry Daniels Inc Hermosa Cruz Inc Hi Seas of Dulac Inc Hien Le Van Inc High Hope Inc Hoang Anh Hoang Long I, II Holland Enterprises

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Holly Beach Seafood Holly Marie's Seafood Market Hombre Inc Home Loving Care Co Hondumex Ent Inc Hong Nga Inc Hongri Inc Houston Foret Seafood Howerin Trawlers Inc HTH Marine Inc Hubbard Seafood Hurricane Emily Seafood Inc Hutcherson Christian Shrimp Inc Huyen Inc Icy Seafood II Inc ICY Seafood Inc Icy Seafood Inc Ida's Seafood Rest & Market Ike & Zack Inc Independent Fish Company Inc Inflation Inc Integrity Fisheries Inc Integrity Fishing Inc International Oceanic Ent Interstate Vo LLC Intracoastal Seafood Inc Iorn Will Inc Irma Trawlers Inc Iron Horse Inc Isabel Maier Inc Isabel Maier Inc Isla Cruz Inc J & J Rentals Inc J & J Trawler's Inc J & R Seafood J Collins Trawlers J D Land Co Jackie & Hiep Trieu Jacob A Inc Jacquelin Marie Inc Jacquelin Marie Inc James D Quach Inc James E Scott III James F Dubberly James Gadson James J Matherne Jr James J Matherne Sr James Kenneth Lewis Sr James LaRive Jr James W Green Jr dba Miss Emilie Ann James W Hicks Janet Louise Inc Jani Marie JAS Inc JBS Packing Co Inc JBS Packing Inc JCM Jean's Bait Jeff Chancey Jemison Trawler's Inc Jenna Dawn LLC Jennifer Nguyen—Capt T Jensen Seafood Pkg Co Inc Jesse LeCompte Jr Jesse LeCompte Sr Jesse Shantelle Inc Jessica Ann Inc Jessica Inc Jesus G Inc Jimmy and Valerie Bonvillain Jimmy Le Inc Jim's Cajen Shrimp Joan of Arc Inc

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			JoAnn and Michael W Daigle
			Jody Martin
			Joe Quach
			Joel's Wild Oak Bait Shop & Fresh Seafood
			John A Norris
			John J Alexie
			John Michael E Inc
			John V Alexie
			Johnny & Joyce's Seafood
			Johnny O Co
			Johnny's Seafood
			John's Seafood
			Joker's Wild
			Jones—Kain Inc
			Joni John Inc (Leon J Champagne)
			Jon's C Seafood Inc
			Joseph Anthony
			Joseph Anthony Inc
			Joseph Garcia
			Joseph Martino
			Joseph Martino Corp
			Joseph T Vermeulen
			Josh & Jake Inc
			Joya Cruz Inc
			JP Fisheries
			Julie Ann LLC
			Julie Hoang
			Julie Shrimp Co Inc (Trawler Julie)
			Julio Gonzalez Boat Builders Inc
			Justin Dang
			JW Enterprise
			K & J Trawlers
			K&D Boat Company
			K&S Enterprises Inc
			Kalliainen Seafoods Inc
			KAM Fishing
			Kandi Sue Inc
			Karl M Belsome LLC
			KBL Corp
			KDH Inc
			Keith M Swindell
			Kellum's Seafood
			Kellum's Seafood
			Kelly Marie Inc
			Ken Lee's Dock LLC
			Kenneth Guidry
			Kenny-Nancy Inc
			Kentucky Fisheries Inc
			Kentucky Trawlers Inc
			Kevin & Bryan (M/V)
			Kevin Dang
			Khang Dang
			Khanh Huu Vu
			Kheng Sok Shrimping
			Kim & James Inc
			Kim Hai II Inc
			Kim Hai Inc
			Kim's Seafood
			Kingdom World Inc
			Kirby Seafood
			Klein Express
			KMB Inc
			Knight's Seafood Inc
			Knight's Seafood Inc
			Knowles Noel Camardelle
			Kramer's Bait Co
			Kris & Cody Inc
			KTC Fishery LLC
			L & M
			L & N Friendship Corp
			L & O Trawlers Inc
			L & T Inc
			L&M

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			LA–3184 CA La Belle Idee La Macarela Inc La Pachita Inc LA–6327–CA LaBauve Inc LaBauve Inc Lade Melissa Inc Lady Agnes II Lady Agnes III Lady Amelia Inc Lady Anna I Lady Anna II Lady Barbara Inc Lady Carolyn Inc Lady Catherine Lady Chancery Inc Lady Chelsea Inc Lady Danielle Lady Debra Inc Lady Dolcina Inc Lady Gail Inc Lady Katherine Inc Lady Kelly Inc Lady Kelly Inc Lady Kristie Lady Lavang LLC Lady Liberty Seafood Co Lady Lynn Ltd Lady Marie Inc Lady Melissa Inc Lady Shelly Lady Shelly Lady Snow Inc Lady Stephanie Lady Susie Inc Lady T Kim Inc Lady TheLna Lady Toni Inc Lady Veronica Lafitte Frozen Foods Corp Lafont Inc Lafourche Clipper Inc Lafourche Clipper Inc Lamarah Sue Inc Lan Chi Inc Lan Chi Inc Lancero Inc Lanny Renard and Daniel Bourque Lapeyrouse Seafood Bar Groc Inc Larry G Kellum Sr Larry Scott Freeman Larry W Hicks Lasseigne & Sons Inc Laura Lee Lauren O Lawrence Jacobs Sfd Lazaretta Packing Inc Le & Le Inc Le Family Inc Le Family Inc Le Tra Inc Leek & Millington Trawler Privateeer Lee's Sales & Distribution Leonard Shrimp Producers Inc Leoncea B Regnier Lerin Lane Li Johnson Liar Liar Libertad Fisheries Inc Liberty I Lighthouse Fisheries Inc Lil Aly

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Lil Arthur Inc Lil BJ LLC Lil Robbie Inc Lil Robbie Inc Lil Robin Lil Robin Lilla Lincoln Linda & Tot Inc Linda Cruz Inc Linda Hoang Shrimp Linda Lou Boat Corp Linda Lou Boat Corp Lisa Lynn Inc Lisa Lynn Inc Little Andrew Inc Little Andy Inc Little Arthur Little David Gulf Trawler Inc Little Ernie Gulf Trawler Inc Little Ken Inc Little Mark Little William Inc Little World LJL Inc Long Viet Nguyen Longwater Seafood dba Ryan H Longwater Louisiana Gulf Shrimp LLC Louisiana Lady Inc Louisiana Man Louisiana Newpack Shrimp Co Inc Louisiana Pride Seafood Inc Louisiana Pride Seafood Inc Louisiana Seafood Dist LLC Louisiana Shrimp & Packing Inc Louisiana Shrimp and Packing Co Inc Lovely Daddy II & III Lovely Jennie Low Country Lady (Randolph N Rhodes) Low County Lady Luchador Inc Lucky Lucky I Lucky Jack Inc Lucky Lady Lucky Lady II Lucky Leven Inc Lucky MV Lucky Ocean Lucky Sea Star Inc Lucky Star Lucky World Lucky's Seafood Market & Poboys LLC Luco Drew's Luisa Inc Lupe Martinez Inc LV Marine Inc LW Graham Inc Lyle LeCompte Lynda Riley Inc Lynda Riley Inc M & M Seafood M V Sherry D M V Tony Inc M&C Fisheries M/V Baby Doll M/V Chevo's Bitch M/V Lil Vicki M/V Loco-N Motion M/V Patsy K #556871 M/V X L Mabry Allen Miller Jr Mad Max Seafood

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Madera Cruz Inc Madison Seafood Madlin Shrimp Co Inc Malibu Malolo LLC Mamacita Inc Man Van Nguyen Manteo Shrimp Co Marco Corp Marcos A Maria Elena Inc Maria Sandi Mariachi Trawlers Inc Mariah Jade Shrimp Company Marie Teresa Inc Marine Fisheries Marisa Elida Inc Mark and Jace Marleann Martin's Fresh Shrimp Mary Bea Inc Master Brandon Inc Master Brock Master Brock Master Dylan Master Gerald Trawlers Inc Master Hai Master Hai II Master Henry Master Jared Inc Master Jhy Inc Master John Inc Master Justin Inc Master Justin Inc Master Ken Inc Master Kevin Inc Master Martin Inc Master Mike Inc Master NT Inc Master Pee-Wee Master Ronald Inc Master Scott Master Scott II Master Seelos Inc Master T Master Tai LLC Master Tai LLC Mat Roland Seafood Co Maw Doo Mayflower McQuaig Shrimp Co Inc Me Kong Melerine Seafood Melody Shrimp Co Mer Shrimp Inc Michael Lynn Michael Nguyen Michael Saturday's Fresh Every Day South Carolina Shrimp Mickey Nelson Net Shop Mickey's Net Midnight Prowler Mike's Seafood Inc Miley's Seafood Inc Militello and Son Inc Miller & Son Seafood Inc Miller Fishing Milliken & Son's Milton J Dufrene and Son Inc Milton Yopp—Capt'n Nathan & Thomas Winfield Minh & Liem Doan Mis Quynh Chi II Miss Adrianna Inc

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Miss Alice Inc Miss Ann Inc Miss Ann Inc Miss Ashleigh Miss Ashleigh Inc Miss Barbara Miss Barbara Inc Miss Bernadette A Inc Miss Bertha (M/V) Miss Beverly Kay Miss Brenda Miss Candace Miss Candace Nicole Inc Miss Carla Jean Inc Miss Caroline Inc Miss Carolyn Louise Inc Miss Caylee Miss Charlotte Inc Miss Christine III Miss Cleda Jo Inc Miss Courtney Inc Miss Courtney Inc Miss Cynthia Miss Danielle Gulf Trawler Inc Miss Danielle LLC Miss Dawn Miss Ellie Inc Miss Faye LLC Miss Fina Inc Miss Georgia Inc Miss Hannah Miss Hannah Inc Miss Hazel Inc Miss Hilary Inc Miss Jennifer Inc Miss Joanna Inc Miss Julia Miss Kandy Tran LLC Miss Kandy Tran LLC Miss Karen Miss Kathi Inc Miss Kathy Miss Kaylyn LLC Miss Khayla Miss Lil Miss Lillie Inc Miss Liz Inc Miss Loraine Miss Loraine Inc Miss Lori Dawn IV Inc Miss Lori Dawn V Inc Miss Lori Dawn VI Inc Miss Lori Dawn VII Inc Miss Lorie Inc Miss Luana D Shrimp Co Miss Luana D Shrimp Co Miss Madeline Inc Miss Madison Miss Marie Miss Marie Inc Miss Marilyn Louis Inc Miss Marilyn Louise Miss Marilyn Louise Inc Miss Marissa Inc Miss Martha Inc Miss Martha Inc Miss Mary T Miss Myle Miss Narla Miss Nicole Miss Nicole Inc Miss Plum Inc Miss Quynh Anh I

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Miss Quynh Anh I LLC Miss Quynh Anh II LLC Miss Redemption LLC Miss Rhianna Inc Miss Sambath Miss Sandra II Miss Sara Ann Miss Savannah Miss Savannah II Miss Soriya Miss Suzanne Miss Sylvia Miss Than Miss Thom Miss Thom Inc Miss Tina Inc Miss Trinh Trinh Miss Trisha Inc Miss Trisha Inc Miss Verna Inc Miss Vicki Miss Victoria Inc Miss Vivian Inc Miss WillaDean Miss Winnie Inc Miss Yvette Inc Miss Yvonne Misty Morn Eat Misty Star MJM Seafood Inc M'M Shrimp Co Inc Mom & Dad Inc Mona-Dianne Seafood Montha Sok and Tan No Le Moon River Inc Moon Tillett Fish Co Inc Moonlight Moonlight Mfg Moore Trawlers Inc Morgan Creek Seafood Morgan Rae Inc Morning Star Morrison Seafood Mother Cabrini Mother Teresa Inc Mr & Mrs Inc Mr & Mrs Inc Mr Coolly Mr Fox Mr Fox Mr G Mr Gaget LLC Mr Henry Mr Natural Inc Mr Neil Mr Phil T Inc Mr Sea Inc Mr Verdin Inc Mr Williams Mrs Judy Too Mrs Tina Lan Inc Ms Alva Inc Ms An My Angel II My Blues My Dad Whitney Inc My Girls LLC My Thi Tran Inc My Three Sons Inc My V Le Inc My-Le Thi Nguyen Myron A Smith Inc Nancy Joy

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Nancy Joy Inc Nancy Joy Inc Nanny Granny Inc Nanny Kat Seafood LLC Napolean Seafoods Napoleon II Napoleon Seafood Napoleon SF Naquin's Seafood Nautilus LLC Nelma Y Lane Nelson and Son Nelson Trawlers Inc Nelson's Quality Shrimp Company Nevgulmarco Co Inc New Deal Comm Fishing New Way Inc Nguyen Day Van Nguyen Express Nguyen Int'l Enterprises Inc Nguyen Shipping Inc NHU UYEN Night Moves of Cut Off Inc Night Shift LLC Night Star North Point Trawlers Inc North Point Trawlers Inc Nuestra Cruz Inc Nunez Seafood Oasis Ocean Bird Inc Ocean Breeze Inc Ocean Breeze Inc Ocean City Corp Ocean Emperor Inc Ocean Harvest Wholesale Inc Ocean Pride Seafood Inc Ocean Seafood Ocean Select Seafood LLC Ocean Springs Seafood Market Inc Ocean Wind Inc Oceanica Cruz Inc Odin LLC Old Maw Inc Ole Holbrook's Fresh Fish Market LLC Ole Nelle One Stop Bait & Ice Open Sea Inc Orage Enterprises Inc Orn Roeum Shrimping Otis Cantrelle Jr Otis M Lee Jr Owens Shrimping Palmetto Seafood Inc Papa Rod Inc Papa T Pappy Inc Pappy's Gold Parfait Enterprises Inc Paris/Asia Parramore Inc Parrish Shrimping Inc Pascagoula Ice & Freezer Co Inc Pat-Lin Enterprises Inc Patricia Foret Patrick Sutton Inc Patty Trish Inc Paul Piazza and Son Inc Paw Paw Allen Paw Paw Pride Inc Pearl Inc dba Indian Ridge Shrimp Co Pei Gratia Inc Pelican Point Seafood Inc

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Penny V LLC Perlita Inc Perseverance I LLC Pete & Queenie Inc Phat Le and Le Tran Phi Long Inc Phi-Ho LLC Pip's Place Marina Inc Plaisance Trawlers Inc Plata Cruz Inc Poc-Tal Trawlers Inc Pointe-Aux-Chene Marina Pontchautrain Blue Crab Pony Express Poppee Poppy's Pride Seafood Port Bolivar Fisheries Inc Port Marine Supplies Port Royal Seafood Inc Poteet Seafood Co Inc Potter Boats Inc Price Seafood Inc Prince of Tides Princess Ashley Inc Princess Celine Inc Princess Cindy Inc Princess Lorie LLC Princess Mary Inc Prosperity PT Fisheries Inc Punch's Seafood Mkt Purata Trawlers Inc Pursuer Inc Quality Seafood Quang Minh II Inc Queen Lily Inc Queen Mary Queen Mary Inc Quinta Cruz Inc Quoc Bao Inc Quynh NHU Inc Quynh Nhu Inc R & J Inc R & K Fisheries LLC R & L Shrimp Inc R & P Fisheries R & R Bait/Seafood R & S Shrimping R & T Atocha LLC R&D Seafood R&K Fisheries LLC R&R Seafood RA Lesso Brokerage Co Inc RA Lesso Seafood Co Inc Rachel-Jade Ralph Lee Thomas Jr Ralph W Jones Ramblin Man Inc Ranchero Trawlers Inc Randall J Pinell Inc Randall J Pinell Inc Randall K and Melissa B Richard Randall Pinell Randy Boy Inc Randy Boy Inc Rang Dong Raul L Castellanos Raul's Seafood Raul's Seafood Rayda Cheramie Inc Raymond LeBouef RCP Seafood I II III RDR Shrimp Inc

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Reagan's Seafood Rebecca Shrimp Co Inc Rebel Seafood Regulus Rejimi Inc Reno's Sea Food Res Vessel Reyes Trawlers Inc Rick's Seafood Inc Ricky B LLC Ricky G Inc Riffle Seafood Rigolets Bait & Seafood LLC Riverside Bait & Tackle RJ's Roatex Ent Inc Robanie C Inc Robanie C Inc Robanie C Inc Robert E Landry Robert H Schrimpf Robert Johnson Robert Keenan Seafood Robert Upton or Terry Upton Robert White Seafood Rockin Robbin Fishing Boat Inc Rodney Hereford Jr Rodney Hereford Sr Rodney Hereford Sr Roger Blanchard Inc Rolling On Inc Romo Inc Ronald Louis Anderson Jr Rosa Marie Inc Rose Island Seafood RPM Enterprises LLC Rubi Cruz Inc Ruf-N-Redy Inc Rutley Boys Inc Sadie D Seafood Safe Harbour Seafood Inc Salina Cruz Inc Sally Kim III Sally Kim IV Sam Snodgrass & Co Samaira Inc San Dia Sand Dollar Inc Sandy N Sandy O Inc Santa Fe Cruz Inc Santa Maria I Inc Santa Maria II Santa Monica Inc Scavanger Scooby Inc Scooby Inc Scottie and Juliette Dufrene Scottie and Juliette Dufrene Sea Angel Sea Angel Inc Sea Bastion Inc Sea Drifter Inc Sea Durbin Inc Sea Eagle Sea Eagle Fisheries Inc Sea Frontier Inc Sea Gold Inc Sea Gulf Fisheries Inc Sea Gypsy Inc Sea Hawk I Inc Sea Horse Fisheries Sea Horse Fisheries Inc

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Sea King Inc Sea Pearl Seafood Company Inc Sea Queen IV Sea Trawlers Inc Sea World Seabrook Seafood Inc Seabrook Seafood Inc Seafood & Us Inc Seaman's Magic Inc Seaman's Magic Inc Seaside Seafood Inc Seaweed 2000 Seawolf Seafood Second Generation Seafood Shark Co Seafood Inter Inc Sharon-Ali Michelle Inc Shelby & Barbara Seafood Shelby & Barbara Seafood Shelia Marie LLC Shell Creek Seafood Inc Shirley Elaine Shirley Girl LLC Shrimp Boat Patrice Shrimp Boating Inc Shrimp Express Shrimp Man Shrimp Networks Inc Shrimp Trawler Shrimper Shrimper Shrimpy's Si Ky Lan Inc Si Ky Lan Inc Si Ky Lan Inc Sidney Fisheries Inc Silver Fox Silver Fox LLC Simon Sims Shrimping Skip Toomer Inc Skip Toomer Inc Skyla Marie Inc Smith & Sons Seafood Inc Snowdrift Snowdrift Sochenda Soeung Phat Son T Le Inc Son's Pride Inc Sophie Marie Inc Soul Mama Inc Souther Obsession Inc Southern Lady Southern Nightmare Inc Southern Star Southshore Seafood Spencers Seafood Sprig Co Inc St Anthony Inc St Daniel Phillip Inc St Dominic St Joseph St Joseph St Joseph II Inc St Joseph III Inc St Joseph IV Inc St Martin St Martyrs VN St Mary Seafood St Mary Seven St Mary Tai St Michael Fuel & Ice Inc St Michael's Ice & Fuel

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			St Peter St Peter 550775 St Teresa Inc St Vincent Andrew Inc St Vincent Gulf Shrimp Inc St Vincent One B St Vincent One B Inc St Vincent SF St Vincent Sfd Inc Start Young Inc Steamboat Bills Seafood Stella Mestre Inc Stephen Dantin Jr Stephney's Seafood Stipelcovich Marine Wks Stone-Co Farms LP Stone-Co Farms LP Stormy Sean Inc Stormy Seas Inc Sun Star Inc Sun Swift Inc Sunshine Super Coon Inc Super Cooper Inc Swamp Irish Inc Sylvan P Racine Jr—Capt Romain T & T Seafood T Brothers T Cvitanovich Seafood LLC Ta Do Ta T Vo Inc Ta T Vo Inc Tana Inc Tanya Lea Inc Tanya Lea Inc Tanya Lea Inc Tasha Lou T-Brown Inc Tee Frank Inc Tee Tigre Inc Tercera Cruz Inc Terrebonne Seafood Inc Terri Monica Terry Luke Corp Terry Luke Corp Terry Luke Corp Terry Lynn Inc Te-Sam Inc Texas 1 Inc Texas 18 Inc Texas Lady Inc Texas Pack Inc Tex-Mex Cold Storage Inc Tex-Mex Cold Storage Inc Thai & Tran Inc Thai Bao Inc Thanh Phong The Boat Phat Tai The Fishermans Dock The Last One The Light House Bait & Seafood Shack LLC The Mayporter Inc The NGO The Seafood Shed Thelma J Inc Theresa Seafood Inc Third Tower Inc Thomas Winfield—Capt Nathan Thompson Bros Three C's Three Dads Three Sons Three Sons Inc

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Three Sons Inc
			Thunder Roll
			Thunderbolt Fisherman's Seafood Inc
			Thy Tra Inc
			Thy Tra Inc
			Tidelands Seafood Co Inc
			Tiffani Claire Inc
			Tiffani Claire Inc
			Tiger Seafood
			Tikede Inc
			Timmy Boy Corp
			Tina Chow
			Tina T LLC
			Tino Mones Seafood
			TJ's Seafood
			Toan Inc
			Todd Co
			Todd's Fisheries
			Tom LE LLC
			Tom Le LLC
			Tom N & Bill N Inc
			Tommy Bui dba Mana II
			Tommy Cheramie Inc
			Tommy Gulf Sea Food Inc
			Tommy's Seafood Inc
			Tonya Jane Inc
			Tony-N
			Tookie Inc
			Tot & Linda Inc
			T-Pops Inc
			Tran Phu Van
			Tran's Express Inc
			Travis-Shawn
			Travis-Shawn
			Trawler Azteca
			Trawler Becky Lyn Inc
			Trawler Capt GC
			Trawler Capt GC II
			Trawler Dalia
			Trawler Doctor Bill
			Trawler Gulf Runner
			Trawler HT Seaman
			Trawler Joyce
			Trawler Kristi Nicole
			Trawler Kyle & Courtney
			Trawler Lady Catherine
			Trawler Lady Gwen Doe
			Trawler Linda B Inc
			Trawler Linda June
			Trawler Little Brothers
			Trawler Little Gavino
			Trawler Little Rookie Inc
			Trawler Mary Bea
			Trawler Master Alston
			Trawler Master Jeffery Inc
			Trawler Michael Anthony Inc
			Trawler Mildred Barr
			Trawler Miss Alice Inc
			Trawler Miss Jamie
			Trawler Miss Kelsey
			Trawler Miss Sylvia Inc
			Trawler Mrs Viola
			Trawler Nichols Dream
			Trawler Raindear Partnership
			Trawler Rhonda Kathleen
			Trawler Rhonda Lynn
			Trawler Sandra Kay
			Trawler Sarah Jane
			Trawler Sea Wolf
			Trawler Sea Wolf
			Trawler SS Chaplin
			Trawler The Mexican
			Trawler Wallace B

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Trawler Wylie Milam Triple C Seafood Triple T Enterprises Inc Triplets Production Tropical SFD Troy A LeCompte Sr True World Foods Inc T's Seafood Tu Viet Vu TVN Marine Inc TVN Marine Inc Two Flags Inc Tyler James Ultima Cruz Inc UTK Enterprises Inc V & B Shrimping LLC Valona Sea Food Valona Seafood Inc Van Burren Shrimp Co Vaquero Inc Varon Inc Venetian Isles Marina Venice Seafood Exchange Inc Venice Seafood LLC Vera Cruz Inc Veronica Inc Versaggi Shrimp Corp Victoria Rose Inc Viet Giang Corp Vigilante Trawlers Inc Village Creek Seafood Villers Seafood Co Inc Vina Enterprises Inc Vincent L Alexie Jr Vincent Piazza Jr & Sons Seafood Inc Vin-Penny Vivian Lee Inc Von Harten Shrimp Co Inc VT & L Inc Vu NGO Vu-Nguyen Partners W L & O Inc Waccamaw Producers Wait-N-Sea Inc Waller Boat Corp Walter R Hicks Ward Seafood Inc Washington Seafood Watermen Industries Inc Watermen Industries Inc Waymaker Inc Wayne Estay Shrimp Co Inc WC Trawlers Inc We Three Inc We Three Inc Webster's Inc Weems Bros Weems Bros Weems Bros Weems Bros Weems Bros Weems Bros Weems Bros Weems Bros Weems Bros Weems Bros Weems Bros Weems Bros Weems Bros Weems Bros Weems Bros Weems Bros Seafood Weems Bros Seafood Co Weiskopf Fisheries LLC

Commerce case No.	Commission case No.	Product/country	Petitioners/supporters
			Wendy & Eric Inc Wescovich Inc West Point Trawlers Inc Westley J Domangue WH Blanchard Inc Whiskey Joe Inc White and Black White Bird White Foam White Gold Wilcox Shrimping Inc Wild Bill Wild Eagle Inc William E Smith Jr Inc William Lee Inc William O Nelson Jr William Patrick Inc William Smith Jr Inc Willie Joe Inc Wind Song Inc Wonder Woman Woods Fisheries Inc Woody Shrimp Co Inc Yeaman's Inc Yen Ta Yogi's Shrimp You & Me Shrimp Ysclaskey Seafood Zirlott Trawlers Inc Zirlott Trawlers Inc

[FR Doc. 2010–13053 Filed 5–28–10; 8:45 am]

BILLING CODE 9111–14–P

Reader Aids

Federal Register

Vol. 75, No. 104

Tuesday, June 1, 2010

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal__register**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, JUNE

30267–30686..... 1

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 1121/P.L. 111–167
Blue Ridge Parkway and Town of Blowing Rock Land Exchange Act of 2009 (May 24, 2010; 124 Stat. 1188)

H.R. 1442/P.L. 111–168
To provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909. (May 24, 2010; 124 Stat. 1190)

H.R. 2802/P.L. 111–169
To provide for an extension of the legislative authority of the Adams Memorial Foundation to establish a commemorative work in honor of former President John Adams and his legacy, and for other purposes. (May 24, 2010; 124 Stat. 1192)

H.R. 5148/P.L. 111–170
To amend title 39, United States Code, to clarify the instances in which the term ''census'' may appear on mailable matter. (May 24, 2010; 124 Stat. 1193)

H.R. 5160/P.L. 111–171

Haiti Economic Lift Program Act of 2010 (May 24, 2010; 124 Stat. 1194)

S. 1067/P.L. 111–172

Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 (May 24, 2010; 124 Stat. 1209)

H.R. 5014/P.L. 111–173

To clarify the health care provided by the Secretary of Veterans Affairs that constitutes minimum essential coverage. (May 27, 2010; 124 Stat. 1215)

S. 1782/P.L. 111–174

Federal Judiciary Administrative Improvements Act of 2010 (May 27, 2010; 124 Stat. 1216)

S. 3333/P.L. 111–175

Satellite Television Extension and Localism Act of 2010 (May 27, 2010; 124 Stat. 1218)

Last List May 20, 2010

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JUNE 2010

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	21 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	35 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
June 1	Jun 16	Jun 22	Jul 1	Jul 6	Jul 16	Aug 2	Aug 30
June 2	Jun 17	Jun 23	Jul 2	Jul 7	Jul 19	Aug 2	Aug 31
June 3	Jun 18	Jun 24	Jul 6	Jul 8	Jul 19	Aug 2	Sep 1
June 4	Jun 21	Jun 25	Jul 6	Jul 9	Jul 19	Aug 3	Sep 2
June 7	Jun 22	Jun 28	Jul 7	Jul 12	Jul 22	Aug 6	Sep 7
June 8	Jun 23	Jun 29	Jul 8	Jul 13	Jul 23	Aug 9	Sep 7
June 9	Jun 24	Jun 30	Jul 9	Jul 14	Jul 26	Aug 9	Sep 7
June 10	Jun 25	Jul 1	Jul 12	Jul 15	Jul 26	Aug 9	Sep 8
June 11	Jun 28	Jul 2	Jul 12	Jul 16	Jul 26	Aug 10	Sep 9
June 14	Jun 29	Jul 6	Jul 14	Jul 19	Jul 29	Aug 13	Sep 13
June 15	Jun 30	Jul 6	Jul 15	Jul 20	Jul 30	Aug 16	Sep 13
June 16	Jul 1	Jul 7	Jul 16	Jul 21	Aug 2	Aug 16	Sep 14
June 17	Jul 2	Jul 8	Jul 19	Jul 22	Aug 2	Aug 16	Sep 15
June 18	Jul 6	Jul 9	Jul 19	Jul 23	Aug 2	Aug 17	Sep 16
June 21	Jul 6	Jul 12	Jul 21	Jul 26	Aug 5	Aug 20	Sep 20
June 22	Jul 7	Jul 13	Jul 22	Jul 27	Aug 6	Aug 23	Sep 20
June 23	Jul 8	Jul 14	Jul 23	Jul 28	Aug 9	Aug 23	Sep 21
June 24	Jul 9	Jul 15	Jul 26	Jul 29	Aug 9	Aug 23	Sep 22
June 25	Jul 12	Jul 16	Jul 26	Jul 30	Aug 9	Aug 24	Sep 23
June 28	Jul 13	Jul 19	Jul 28	Aug 2	Aug 12	Aug 27	Sep 27
June 29	Jul 14	Jul 20	Jul 29	Aug 3	Aug 13	Aug 30	Sep 27
June 30	Jul 15	Jul 21	Jul 30	Aug 4	Aug 16	Aug 30	Sep 28